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FEDERAL TELECOMMUNICATIONS LAW:

A LEGISLATIVE HISTORY OF

THE TELECOMMUNICATIONS ACT OF 1996

PUB. L. NO. 104-104, 110 STAT. 56 (1996)

INCLUDING

THE COMMUNICATIONS DECENCY ACT

Volume 3
Document Numbers
10 - 95

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Library of Congress Catalog Number 97-70098
ISBN 1-57588-279-5 (SET)

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SUMMARY TABLE OF CONTENTS

Master Table of Documents . . . . . Vol. 1

Selected Bibliography . . . . . Vol. 1

Section I: Law as Enacted . . . . . Vol. 1 (Doc. No. 1)

Section II: Reports on the Law . . . . . Vol. 1 (Doc. Nos. 2 - 6)

Section III: Hearings on the Law . . . . Vol. 2 (Doc. Nos. 7 - 9)

Section IV: Congressional Record . . Vol. 3 (Doc. Nos. 10 - 87)

Section V: Presidential and Vice Presidential Statements . . . . . Vol. 3 (Doc. Nos. 88 - 95)

Section VI: Past Bill Versions . . . Vol. 4 (Doc. Nos. 96 - 101)

Section VII: Related Bills . . . . . Vol. 5 (Doc. Nos. 102 - 115)
Vol. 6 (Doc. Nos. 116 - 120)

Section VIII: Congressional Record - Related Bills . . . . . Vol. 6 (Doc. Nos. 121 - 162)

Section IX: Past Reports . . . . . Vol. 7 (Doc. Nos. 163 - 170)

Section X: Past Hearings . . . . . Vol. 8 (Doc. Nos. 171 - 172)
Vol. 9 (Doc. No. 173)
Vol. 10 (Doc. No. 174)
Vol. 11 (Doc. No. 175)
Vol. 12 (Doc. Nos. 176 - 177)
Vol. 13 (Doc. Nos. 178 - 179)
Vol. 14 (Doc. No. 180)
Vol. 15 (Doc. Nos. 181 - 184)
Vol. 16 (Doc. No. 185)
Vol. 17 (Doc. No. 186)
Vol. 18 (Doc. Nos. 187 - 188(A&B))
Vol. 19 (Doc. Nos. 188(C) - 189)
Vol. 20 (Doc. Nos. 190 - 191)
Vol. 21 (Doc. Nos. 192 - 201)

Section XI: Final Report . . . . . Vol. 21 (Doc. No. 202)

HeinOnline -- 3 Bernard D. Reams, Jr. & William H. Manz, Federal Telecommunications Law: A Legislative History of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) including the Communications Decency Act iii 1997

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INTRODUCTION

AN OVERVIEW OF THE TELECOMMUNICATIONS ACT OF 1996

The "Telecommunications Act of 1996," signed into law on February 8, 1996, opens up competition between local telephone companies, long-distance providers, and cable companies; expands the reach of advanced telecommunications services to schools, libraries, and hospitals; and requires the use of the new V-chip technology to enable families to exercise greater control over the television programming that comes into their homes. This Act lays the foundation for the investment and development that will ultimately create a national information superhighway to serve both the private sector and the public interest.

President Clinton noted that the Act will continue the efforts of his administration in ensuring that the American public has access to many different sources of news and information in their communities. The Act increases, from 25 to 35 percent, the cap on the national audience that television stations owned by one person or entity can reach. This cap will prevent a single broadcast group owner from dominating the national media market.

Rates for cable programming services and equipment used solely to receive such services will, in general, be deregulated in about three years. Cable rates will be deregulated more quickly in communities where a phone company offers programming to a comparable number of households, providing effective competition to the cable operator. In such circumstances, consumers will be protected from price hikes because the cable system faces real competition.

This Act also makes it possible for the regional Bell companies to offer long-distance service, provided that, in the judgment of the Federal Communications Commission (FCC), they have opened up their local networks to competitors such as long-distance companies, cable operators, and others. In order to protect the public, the FCC must evaluate any application for entry into the long-distance business in light of its public interest test, which gives the FCC discretion to consider a broad range of issues, such as the adequacy of interconnection arrangements to

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permit vigorous competition. Furthermore, in deciding whether to grant the application of a regional Bell company to offer long-distance service, the FCC must accord "substantial weight" to the views of the Attorney General. This special legal standard ensures that the FCC and the courts will accord full weight to the special competition expertise of the Justice Department's Antitrust Division--especially its expertise in making predictive judgments about the effect that entry by a bell company into long-distance may have on competition in local and long-distance markets.

Title V of the Act is entitled the "Communications Decency Act of 1996." This section is specifically aimed at curtailing the communication of violent and indecent material. The Act requires new televisions to be outfitted with the V-chip, a measure which President Clinton said, "will empower families to choose the kind of programming suitable for their children." The V-chip provision relies on the broadcast networks to produce a rating system and to implement the system in a manner compatible with V-chip technology. By relying on the television industry to establish and implement the ratings, the Act serves the interest of the families without infringing upon the First Amendment rights of the television programmers and producers.

President Clinton signed this Act into law in an effort to strengthen the economy, society, families, and democracy. It promotes competition as the key to opening new markets and new opportunities. This Act will enable us to ride safely into the twenty-first century on the information superhighway.

We wish to acknowledge the contribution of Loris Zeppieri, a third year law student, who helped in gathering these materials.

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TABLE OF DOCUMENTS

VOLUME 3

Section IV: Congressional Record

Doc. No. 10 - 141 CONG. REC. S4838-39 (daily ed. March 30, 1995) (statement of Sen. Kerrey)

Doc. No. 11 - 141 CONG. REC. S5179 (daily ed. April 5, 1995) (statement of Sen. Daschle).

Doc. No. 12 - 141 CONG. REC. H4520-23 (daily ed. May 3, 1995) (statement of Rep. Fields).

Doc. No. 13 - 141 CONG. REC. E1071-72 (daily ed. May 18, 1995)(extension of remarks of Rep. Oxley)

Doc. No. 14 - 141 CONG. REC. S7492-95 (daily ed. May 25, 1995) (statement of Sen. Byrd).

Doc. No. 15 - 141 CONG. REC. S7881-7912 (daily ed. June 7, 1995) (Senate consideration of S. 652).

Doc. No. 16 - 141 CONG. REC. S7926-27 (daily ed. June 7, 1995) (Dole Amendment 1255).

Doc. No. 17 - 141 CONG. REC. S7927-28 (daily ed. June 7, 1995) (Stevens Amendment 1256).

Doc. No. 18 - 141 CONG. REC. S7928 (daily ed. June 7, 1995) (Pressler Amendment 1257).

Doc. No. 19 - 141 CONG. REC. S7928-32 (daily ed. June 7, 1995) (Pressler Amendment 1258).

Doc. No. 20 - 141 CONG. REC. S7942-8018 (daily ed. June 8, 1995) (Senate consideration of S. 652)

Doc. No. 21 - 141 CONG. REC. S7960 (daily ed. June 8, 1995) (McCain Amendment 1260).

Doc. No. 22 - 141 CONG. REC. S8008-10 (daily ed. June 8, 1995) (Dorgan Amendment 1264).

For ***Master Table of Documents*** of this set, please refer to ***Volume 1.***

HeinOnline -- 3 Bernard D. Reams, Jr. & William H. Manz, Federal Telecommunications Law: A Legislative History of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) including the Communications Decency Act vii 1997

Doc. No. 23 - 141 CONG. REC. S8010-11 (daily ed. June 8, 1995) (Thurmond Amendment 1265).

Doc. No. 24 - 141 CONG. REC. S8043 (daily ed. June 8, 1995) (Dorgan Amendment 1259).

Doc. No. 25 - 141 CONG. REC. S8043 (daily ed. June 8, 1995) (McCain Amendment 1260).

Doc. No. 26 - 141 CONG. REC. S8043 (daily ed. June 8, 1995) (McCain Amendment 1261-1262).

Doc. No. 27 - 141 CONG. REC. S8043 (daily ed. June 8, 1995) (Cohen Amendment 1263).

Doc. No. 28 - 141 CONG. REC. S8043-44 (daily ed. June 8, 1995) (Dorgan Amendment 1264).

Doc. No. 29 - 141 CONG. REC. S8044 (daily ed. June 8, 1995) (Thurmond Amendment 1265).

Doc. No. 30 - 141 CONG. REC. S8044-45 (daily ed. June 8, 1995) (Hollings Amendment 1266).

Doc. No. 31 - 141 CONG. REC. S8055-78 (daily ed. June 9, 1995) (Senate consideration of S. 652).

Doc. No. 32 - 141 CONG. REC. S8064-66 (daily ed. June 9, 1995) (McCain Amendment 1260).

Doc. No. 33 - 141 CONG. REC. S8085 (daily ed. June 9, 1995) (proposed Simon Amendment to S. 652).

Doc. No. 34 - 141 CONG. REC. S8085-86 (daily ed. June 9, 1995) (statement of Sen. Dole).

Doc. No. 35 - 141 CONG. REC. S8086-87 (daily ed. June 9, 1995) (Unanimous-Consent Agreement).

Doc. No. 36 - 141 CONG. REC. S8087-92 (daily ed. June 9, 1995) (statement of Sen. Exon).

Doc. No. 37 - 141 CONG. REC. S8092-95 (daily ed. June 9, 1995) (statement of Sen. Kerrey).

Doc. No. 38 - 141 CONG. REC. S8120 (daily ed. June 9, 1995) (Santorum Amendment 1267).

For ***Master Table of Documents*** of this set, please refer to ***Volume 1.***

HeinOnline -- 3 Bernard D. Reams, Jr. & William H. Manz, Federal Telecommunications Law: A Legislative History of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) including the Communications Decency Act viii 1997

Doc. No. 39 - 141 CONG. REC. S8120-21 (daily ed. June 9, 1995) (Exon Amendment 1268).

Doc. No. 40 - 141 CONG. REC. S8127-28 (daily ed. June 12, 1995) (statement of Sen. Inhofe).

Doc. No. 41 - 141 CONG. REC. S8134-76 (daily ed. June 12, 1995) (Senate consideration of S. 652).

Doc. No. 42 - 141 CONG. REC. S8183 (daily ed. June 12, 1995) (Feinstein Amendment 1269,1270).

Doc. No. 43 - 141 CONG. REC. S8183 (daily ed. June 12, 1995) (Robb Amendment 1271).

Doc. No. 44 - 141 CONG. REC. S8188-98 (daily ed. June 12, 1995) (statement of Sen. Pressler).

Doc. No. 45 - 141 CONG. REC. S8206-54 (daily ed. June 13, 1995) (Senate consideration of S. 652).

Doc. No. 46 - 141 CONG. REC. S8265-88 (daily ed. June 13, 1995) (Amendments submitted).

Doc. No. 47 - 141 CONG. REC. S8305-76 (daily ed. June 14, 1995) (Senate consideration of S. 652).

Doc. No. 48 - 141 CONG. REC. S8378 (daily ed. June 14, 1995) (Stevens Amendment 1301, as modified).

Doc. No. 49 - 141 CONG. REC. S8386-8400 (daily ed. June 14, 1995) (Amendments submitted).

Doc. No. 50 - 141 CONG. REC. S8417-20 (daily ed. June 15, 1995) (Senate consideration of S. 652).

Doc. No. 51 - 141 CONG. REC. S8422-23 (daily ed. June 15, 1995) (discussion of Amendment 1298).

Doc. No. 52 - 141 CONG. REC. S8424-80 (daily ed. June 15, 1995) (Senate consideration of S. 652).

Doc. No. 53 - 141 CONG. REC. S8517 (daily ed. June 15, 1995) (Pressler Amendment 1422, 1423).

Doc. No. 54 - 141 CONG. REC. S8525 (daily ed. June 16, 1995) (Statement of Sen. Dole).

For ***Master Table of Documents*** of this set, please refer to ***Volume 1.***

HeinOnline -- 3 Bernard D. Reams, Jr. & William H. Manz, Federal Telecommunications Law: A Legislative History of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) including the Communications Decency Act ix 1997

Doc. No. 55 - 141 CONG. REC. S8526-27 (daily ed. June 16, 1995) (statement of Sen. McCain).

Doc. No. 56 - 141 CONG. REC. S8528 (daily ed. June 16, 1995) (statement of Sen. Packwood).

Doc. No. 57 - 141 CONG. REC. S8570-95 (daily ed. June 16, 1995) (full text of S. 652 as passed by the Senate on June 15, 1995).

Doc. No. 58 - 141 CONG. REC. S8957 (daily ed. June 22, 1995) (statement of Sen. Abraham).

Doc. No. 59 - 141 CONG. REC. E1392-93 (daily ed. June 30, 1995) (statement of Rep. Wyden).

Doc. No. 60 - 141 CONG. REC. H7560 (daily ed. July 25, 1995) (statement of Rep. Eshoo).

Doc. No. 61 - 141 CONG. REC. E1565-66 (daily ed. July 31, 1995) (statement of Rep. Markey).

Doc. No. 62 - 141 CONG. REC. E1571-73 (daily ed. August 1, 1995) (statement of Rep. Markey).

Doc. No. 63 - 141 CONG. REC. H8269-95 (daily ed. August 2, 1995) (consideration of H.R. 1555).

Doc. No. 64 - 141 CONG. REC. E1579-80 (daily ed. August 2, 1995) (statement of Rep. Taylor).

Doc. No. 65 - 141 CONG. REC. H8312 (daily ed. August 3, 1995) (statement of Rep. Watts).

Doc. No. 66 - 141 CONG. REC. H8481-8507 (daily ed. August 4, 1995) (consideration of the Communications Act of 1995).

Doc. No. 67 - 141 CONG. REC. E1628 (daily ed. August 4, 1995) (speech of Rep. Collins).

Doc. No. 68 - 141 CONG. REC. E1629 (daily ed. August 4, 1995) (speech of Rep. Radanovich).

Doc. No. 69 - 141 CONG. REC. H8425-80 (daily ed. August 4, 1995) (consideration of H.R. 1555).

For ***Master Table of Documents*** of this set, please refer to ***Volume 1.***

HeinOnline -- 3 Bernard D. Reams, Jr. & William H. Manz, Federal Telecommunications Law: A Legislative History of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) including the Communications Decency Act x 1997

Doc. No. 70 - 141 CONG. REC. S12208-09 (daily ed. August 10, 1995) (statement of Sen. Dole).

Doc. No. 71 - 141 CONG. REC. S12363-65 (daily ed. August 11, 1995) (statement of Sen. Pressler).

Doc. No. 72 - 141 CONG. REC. E1699-1700 (daily ed. August 11, 1995) (statement of Rep. Tauzin).

Doc. No. 73 - 141 CONG. REC. E1750 (daily ed. September 8, 1995) (speech of Rep. Paxon).

Doc. No. 74 - 141 CONG. REC. S13309-12 (daily ed. September 11, 1995) (statement of Sen. Pressler).

Doc. No. 75 - 141 CONG. REC. E1913-14 (daily ed. October 11, 1995) (statement of Rep. Ward).

Doc. No. 76 - 141 CONG. REC. H9954-10002 (daily ed. October 12, 1995) (full text of S. 652).

Doc. No. 77 - 141 CONG. REC. S15144-56 (daily ed. October 13, 1995) (debate over S. 652).

Doc. No. 78 - 141 CONG. REC. S16380 (daily ed. October 31, 1995) (statement of Sen. Pressler).

Doc. No. 79 - 141 CONG. REC. S17847-51 (daily ed. November 30, 1995) (statement of Sen. Dorgan).

Doc. No. 80 - 142 CONG. REC. S393 (daily ed. January 26, 1996) (statement of Sen. Pressler).

Doc. No. 81 - 142 CONG. REC. H1078-1106 (daily ed. January 31, 1996) (conference report on S. 652).

Doc. No. 82 - 142 CONG. REC. H1145-79 (daily ed. February 1, 1996) (House consideration of conference report on S652).

Doc. No. 83 - 142 CONG. REC. S686-721 (daily ed. February 1, 1996) (Senate consideration of conference report on S652).

Doc. No. 84 - 142 CONG. REC. S684-85 (daily ed. February 1, 1996) (statement of Sen. McCain).

For ***Master Table of Documents*** of this set, please refer to ***Volume 1.***

HeinOnline -- 3 Bernard D. Reams, Jr. & William H. Manz, Federal Telecommunications Law: A Legislative History of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) including the Communications Decency Act xi 1997

Doc. No. 85 - 142 CONG. REC. E192 (daily ed. February 9, 1996) (speech of Rep. Oxley).

Doc. No. 86 - 142 CONG. REC. E197-98 (daily ed. February 13, 1996) (speech of Rep. Lowey).

Doc. No. 87 - 142 CONG. REC. S1311 (daily ed. Febrary 26, 1996) (statement of Sen. Breaux).

Section V: Presidential and Vice Presidential Statements

Doc. No. 88 - President's Statement Regarding Telecommunications Reform, 31 WEEKLY COMP. PRES. DOC. 1353 (August 1, 1995).

Doc. No. 89 - President's Statement on Proposed Telecommunications Reform Legislation, 31 WEEKLY COMP. PRES. DOC. 1355 (August 1, 1995).

Doc. No. 90 - Statement by the Vice President Gore on H.R. 1555 (August 3, 1995).

Doc. No. 91 - President's Statement Regarding Telecommunications Reform, 31 WEEKLY COMP. PRES. DOC. 1376 (August 4, 1995).

Doc. No. 92 - President's Letter to Senator Ernest F. Hollings on the Telecommunications Reform Bill, 31 WEEKLY COMP. PRES. DOC. 1955 (October 30, 1995).

Doc. No. 93 - President's Statement on Passage on the Telecommunications Reform Act of 1995, 32 WEEKLY COMP. PRES. DOC. 144 (February 1, 1996).

Doc. No. 94 - President's Remarks on Signing the Telecommunications Act of 1996, 32 WEEKLY COMP. PRES. DOC. 215 (February 8, 1996).

Doc. No. 95 - President's Statement on Signing the Telecommunications Act of 1996, 32 WEEKLY COMP. PRES. DOC. 218 (February 8, 1996).

For ***Master Table of Documents*** of this set, please refer to ***Volume 1.***

HeinOnline -- 3 Bernard D. Reams, Jr. & William H. Manz, Federal Telecommunications Law: A Legislative History of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) including the Communications Decency Act xii 1997

Document No. 10

HeinOnline -- 3 Bernard D. Reams, Jr. & William H. Manz, Federal Telecommunications Law: A Legislative History of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) including the Communications Decency Act [i] 1997

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Outside of being patently wrong, it is exceedingly damaging for these kinds of messages, in the face of what we are confronting as a people and a nation. That would be like, instead of saying to the Nation, as President Roosevelt did, that this day will live in infamy and charging the Nation for what it had to do—which was not a very pretty picture—to have traveled around the country and saying the world is in pretty good shape, those fellows are really nice guys.

You are robbing the people of the will that is going to be required to meet this test when you tell them things like this—we are actually running a surplus, if it were not for the debt.

And while they are saying this, they have already added $1 trillion in new debt or increased it by 20 percent. The incongruities of this message are befuddling.

But the real damage is if it misleads the American people.

I will give the other side this. We can argue about what priorities are. The priorities that I might feel important may be different from those of the Senator from Minnesota, who was on the floor the other morning while we were talking about these issues of debt. We can argue about what we believe more important or less important. But it is not debatable that the United States is expending moneys it does not have. We are piling debt upon debt. We have spent every dime we have and $5 trillion we do not have, and now we are spending the livelihood of our children and grandchildren and the clock is running out, Mr. President.

Everybody can contemplate 10 years from now. You are either moving into retirement or your children are about ready to go to college or they are looking for a job. They would be staring down the barrel of this great democracy having no revenues left to do anything. That is a serious problem. And it is going to take a serious response. The administration needs to recognize that. They seem to be in denial, sending budgets that accelerate the problem, saying things such as Secretary Rubin has just said here. This is what the President said before Emory University students yesterday, March 29: "After two years we have a reduction in the deficit of $600 billion for the first time"—much applause, and they would—"this is the first time since the mid-sixties when your Government is running at least an operating surplus."

An operating surplus, Mr. President? This is just staggering and stunning. So like I said, Mr. President, we have an enormous problem. The clock has run out. It has run out. We cannot pass this baton to anybody else. The living Americans, the caretakers of this great democracy, have it in their lap. We must confront it. We cannot ignore it. And worse, to mislead is so damaging, so harmful, because it is taking the will away. Everybody would much rather hear a rosy story.

I want to say, in conclusion, that my message is not one of gloom. We can turn this around. We can tighten our belts fairly. We can remove the obstacles to an expanding economy. That means get the taxes down, Mr. President, get Government regulation down.

If your prescription for America is to raise taxes, make more Government, and regulate our lives, and in the meantime, tell them messages like this, there is going to be a very serious day of reckoning, a very serious day of reckoning.

Mr. President, I invite the President to an economic debate. I can suggest to him that the empirical evidence is, through all of time, you have to keep taxes down, government down, regulations down, and let people go to work. That is the way to get out of this problem. You do not get there by suggesting to people, in the face of everything, we know that we are running an operating surplus. I yield the floor in total befuddlement.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine is recognized.

(The remarks of Mr. COHEN and Mr. D'AMATO pertaining to the introduction of S. 648 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LOTT. Mr. President, I ask unanimous consent that I have 10 minutes instead of the previous 5 minutes for morning business.

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

Mr. LOTT. Mr. President, I thank the Chair.

(The remarks of Mr. LOTT pertaining to the introduction of S. 647 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KERREY. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business.

The PRESIDING OFFICER. The Senator has that time in the previous order.

Without objection, it is so ordered.

TELECOMMUNICATIONS

Mr. KERREY. Mr. President, last week, the Senate Commerce Committee reported out a piece of legislation, the Telecommunications Competition Deregulation Act of 1995, that I consider to be a very important piece of legislation.

I have come to the floor here this morning, though, to alert my colleagues, who are also interested and excited about this legislation, that I think it would be very unwise for Members to rush the enactment of this bill.

I take that position not because I have major objections to the legislation. Indeed, I have been intimately involved not just with this bill, but 1822 and the farm team coalition that worked it, trying to make certain there would be universal service for high-cost rural areas.

I have been very much involved with the deregulation of telecommunications. I suspect I am the only Member of Congress who is actually able to say I have signed a significant deregulation act in 1985 when I was Governor.

The delay that I am suggesting, Mr. President, comes as a consequence of a very interesting, what I would call, disconnect.

Just last November I finished a successful reelection campaign. In meeting after meeting, in debates and so forth that we have when facing the voters, they were asking me about term limits, balanced budgets, health care, and agriculture policy. Crime, of course, dominated almost every discussion and debate. What are we going to do about crime?

I must say, Mr. President, that never in my campaign did the issue of telecommunications arise.

I say to my colleagues, as important as this legislation is, and I think it is an urgent and exciting opportunity here, the citizens, in my judgment, are not prepared for the change that this legislation would bring to them—significant change.

I suspect the occupant of the Chair can remember in 1983 when the divestiture occurred. I know in Nebraska, if I put it to the voters, do voters want to go back to the old AT&T or do voters like the new divestiture arrangement, a very large percentage would have said, "Give me the good old days." Because, all of a sudden, choice meant confusion, choice meant competition, choice meant a lot of problems that people were not prepared for.

The same, in my judgment, is apt to occur here. I believe that we need to come to the floor and argue such things as access charges, so we not only understand what an access charge is but what happens when the access charges are decreased, understand what happens when something called rate rebalancing occurs at the local level in a competitive environment—which I am an advocate of. Chairman PRESSLER and Senator HOLLINGS deserve an enormous amount of credit for being able to move this bill out of committee.

One of the things I brought in a focused way to this argument was the need to make sure we had straightforward competition at the local level. So when an entrepreneur comes to the information service business and wants to go to a household and sell information, and that entrepreneur buys his lawyers at $50 an hour, he should know with certainty they are going to prevail over a company that buys, at $500 or $1,000 an hour, its lawyers who have regular, familiar contact with the regulators. If we are going to have that competition, we need that level playing field for the entrepreneur. They need to know with certainty they are going to be able to offer their services to the customer as well.

But in a competitive environment, you cannot price your product below cost for very long. That is what we

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have been allowing for 60 years, basically. We used to have a competitive environment prior to 1934. The country made a conscious decision at the time that we wanted a monopoly, both at the local and long-distance level. We changed the law in 1934. We created a monopoly arrangement. And, as I said, people, I think, would be hard pressed to argue against the statement that it has resulted in the United States having the best telecommunications system in the world. Though monopolies in general do not seem to work, this particular one did.

We made a good decision, although it was unpopular, in 1983 to divest. The divestiture has worked in the context of providing competition in the long-distance area. We now see rates have gone down. We see increased quality. We see improvement as a consequence of this competitive environment.

But, again, to be clear on this, all of us should understand the implications of the statement that in a competitive environment you cannot price your product below cost for very long. What that means is that if I have a residential line into my home and I am paying $12 a month for that residential line and a business is paying $30 a month for the very same thing, we cannot, as residential users, count on that for long. If the price and the cost to provide that residential service is $14 or $15, we are not going to be able to count for very long on being able to get that service for $12. And many of our rural populations now enjoy $4, $5, $6, $7 a month for basic telephone service.

There are other issues that I think are terribly important for us to bring to this floor under the rules of the Senate, which allow unlimited debate. We need to have a debate. There is tremendous promise in telecommunications, promise for new jobs, particularly in a competitive environment, particularly from those entrepreneurs who are apt to create most of the new jobs. Those individuals who come in as small business people with a great new idea tend to be enormously innovative and competitive when it comes to pricing their good or service. I am excited about what competition is going to be able to do, not just for price and quality, but also for the creation of new jobs in the country.

There is tremendous promise, second, Mr. President, in our capacity to educate ourselves. I give a great deal of praise, again, to Senator PRESSLER and Senator BURNS and Senator ROCKEFELLER and others on the committee who put language in here to carve out special protection for our K–12 environment.

Some will say, why? If it is going to be market oriented, why would you do that? For the moment, at least, our schools are not market-oriented businesses. By that I mean they are government run. At $240 billion a year, about 40 million students at $6,000 apiece have to go to school for 180 days a year and learn whatever it is that the States have decided they are supposed to learn. It is a government-run operation. And they are going to be unable, if property taxes and State sales and income taxes are the source of revenue, they are going to be unable to take advantage of this technology. So I was pleased we carved out provisions for schools in this legislation.

We are going to have to debate how do we get our institutions at the local level to change. It is not going to be enough for us merely to change the Federal regulation, giving them the legal authority to ask their local telephone company for a connect and to get a subsidized rate. There is a need for institutional change, both at the local level and at the State level. There is tremendous promise, in my judgment, in communication technology to help our schoolchildren and to help our people who are in the workplace to learn the things they need to know, not just to be able to raise their standard of living, but also to be able to function well as a citizen and to be able to get along with one another in their communities.

Finally, there is tremendous promise with communication technology in helping a citizen of this country become informed. When you are born in the United States of America or you become a citizen of the United States of America through the naturalization process, it is an extraordinary thing to consider. We are the freest people on Earth. No one really seriously doubts that. And the freedoms that we enjoy as a consequence of being a citizen are very exciting.

But balanced against that, a citizen of this country also has very difficult responsibilities. It is a hard thing to be a citizen, a hard thing. Pick up the newspaper, and if you read a newspaper cover to cover today, you have processed as much information in one single reading as was required in a lifetime in the 17th century. We are getting deluged with information. Suddenly a citizen needs to know where is Chechnya, for gosh sakes? What is the history of Haiti, for gosh sakes? All of a sudden I have to know things that I did not have to know before. To make an informed decision is not an easy thing to do. This technology offers us an opportunity to help that citizen, our citizens—ourselves included, I might add—make good decisions.

That will necessitate institutional change, I believe, at the Federal level, but also at the State level to get that done. This, along with education, along with jobs, and along with the changes that our people can expect to have happen, need a full and open and perhaps even lengthy debate on this floor before we enact what I consider to be a pretty darned good piece of legislation.

The committee finished the bill. They are fine tuning it now. They have not actually introduced it yet or given it a title. I am very appreciative of the fine work that Chairman PRESSLER has done and that Senator HOLLINGS and other members of the committee have done to bring this legislation out. I consider it to be at least as important as many other things that we have debated thus far this year. Indeed, over the course of the next 10 years it is apt to be the most important thing that we do.

Therefore, I believe it is incumbent upon us not to just come here with an urgency to change the law, but it is incumbent upon us to come here and examine the law we propose to change and examine the details of the law as we propose to change them and engage the American people in a discussion of what these changes are going to mean for them.

Again, I have high praise for the committee and look forward and hope we have the opportunity to come to this floor for a good, open, and informative debate for the American people.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THE NOMINATION OF DAN GLICKMAN

Mr. SPECTER. Mr. President, in a few moments we will be voting on confirmation of Dan Glickman to be Secretary of Agriculture. I compliment the President on his nomination for that position. I think that former Congressman Glickman is preeminently well qualified for that position.

I would like to say that I have known Dan Glickman since before he was born because we come from the same town, Wichita, KS. Actually we come from a number of towns: Wichita, KS and Philadelphia, PA. But at various times in my life I have lived in those places, and lived in Wichita. The Specter family and the Glickman family were friends for many, many years. In fact, my father, Harry Specter, was a business associate of Dan Glickman's grandfather, J. Glickman. Maybe that is too high an elevation. Actually, my father borrowed $500 from J. Glickman in about 1936 or 1937 at the start of a junk business. In those days my dad would buy junk in the oil fields of Kansas and ship them in boxcars, and ship them through Glickman Iron and Metal. And J. Glickman got the override on the tonnage. So our family relationship goes back many, many years.

My family left Wichita in 1942, a couple of years before Dan Glickman was born. So that I like to say that I have known Dan since before he was born. But I have certainly have known him for his entire lifetime. I have a very, very high regard for him.

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an assault weapon and shot eight people and killed my son's best friend John Scully. On that day, I swore to ban these weapons. Now we have to have the fight all over again, a fight that we thought was over, a divisive, difficult fight. And they are celebrating with the circus. I do not understand it.

Who else loses with the contract? Have you ever heard of the gag rule? That is another fight we already had—the gag rule. A poor woman goes into a family planning clinic and cannot be told her options if she is pregnant, cannot be told her options, cannot be told that she has a right to choose in this country. We fought that fight, and President Clinton lifted the gag rule. He said he thought women should have all the facts known and they should make their own choice. It is up to them to decide. It is a difficult choice, but a woman should be able to make that decision. They are celebrating over there. In their contract, they are bringing back the gag rule, treating women like second-class citizens, as if we do not know what could hurt us.

So it is very clear who the winners and who the losers are. The winners? The very wealthy who get tax breaks, the corporate polluters, the big infant formula companies, the criminals, those who oppose the right to choose. They win in this contract. Really, the billionaires who will walk out and renounce their citizenship to get a tax break are the big winners because we ended that tax break. And what happened in the Republican conference committee? They took that out. Who else wins? The broker-dealers who cheat, who do not take their fiduciary responsibility to their clients seriously.

Those consumers, those investors will have a court system that probably does not let them in the front door.

I believe in a system where David can meet Goliath in the courtroom and let the system work.

They believe in a system where David cannot get in the door. They have something in that contract called "loser pays." It is an English system. It is not the American system. It says if you go into court and you lose, you pay the other guy's attorney's fees. How many of us as small investors would take that chance?

We are going to stop that here in the Senate, but it is in the contract. And the Republicans are celebrating with the circus.

So I hope, in this brief time, I have expressed clearly who the winners are and who the losers are. I can add to the losers the senior citizens, who will see Medicare cuts, huge Medicare cuts. And senior housing cuts.

We could not even get our Republican colleagues to protect Social Security when we took up the balanced budget amendment. We said, "Take Social Security out of that and protect it." We could not get a vote. We lost it on a party-line vote.

So while the celebration is going on there with the circus, I just hope the American people will ask a question like that little girl asked me in school: "Senator, what happens if you cut my school lunch? Who gets that money?"

I ask the American people to ask the question: Who benefits from this contract? And read the fine print, because they are not going to show it to you. You are going to have to work to find it out.

I hope that I have been of help in making the point that overall, this contract is not helpful to the American people.

Thank you very much, Mr. President. I yield the floor.

[Disturbance in the galleries.]

The PRESIDING OFFICER. The galleries will restrain.

Mrs. BOXER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that the Founding Fathers, two centuries before the Reagan and Bush presidencies, made it very clear that it is the constitutional duty of Congress to control Federal spending, though Congress has failed to do so for the past 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,876,206,792,345.50 as of the close of business Tuesday, April 4. This outrageous debt, which will be saddled on the backs of our children and grandchildren, averages out to $18,510.16 on a per capita basis.

TELECOMMUNICATIONS REFORM

Mr. DASCHLE. Mr. President, yesterday, my colleague from South Dakota, Senator PRESSLER, stated on the Senate floor that the administration was working through my office to block consideration of S. 652, the telecommunications bill. This statement was flat out wrong, and while Senator PRESSLER subsequently corrected his statement for the CONGRESSIONAL RECORD, the press has reported the inaccuracy. This issue is sufficiently important that the mistake needs to be pointed out.

I have spoken with the Vice President concerning telecommunications reform legislation. The Vice President stated, as he apparently indicated to Senator PRESSLER, that the administration would like to see the bill improved in a couple of different areas. However, the Vice President did not ask, nor did I offer, to block consideration of the bill.

I am committed to passing a telecommunications reform bill. I am eager to see the benefits of technology and communications services—the so-called information superhighway—extended to all parts of this country, especially rural areas like my own State of South Dakota.

The telecommunications bill is sweeping legislation addressing complex problems, and highly technical subjects. While I have taken no steps to block the bill from coming to the floor, I sympathize with those of my colleagues who desire the opportunity and time to study it. With the Senate schedule set for the balance of the week, and with the time provided by the upcoming Easter recess, Senators will have the chance to evaluate the proposal in detail prior to its coming to the floor.

Again, let me reiterate, I have not sought to block consideration of S. 652. Our ranking member on the Commerce Committee, Senator HOLLINGS, stands ready to proceed. Indeed, as Senator PRESSLER noted, every Democrat on the Commerce Committee voted for the bill at markup.

I believe my intentions in regards to this matter are clear. I simply take this opportunity to reinforce my position that a telecommunications reform bill is among the most important legislation the Senate will consider this year.

THE 14TH ANNIVERSARY OF SHOOTING OF JIM BRADY

Mr. KOHL. Mr. President, today I would like to tell you a story about criminals and guns. It is about someone—let us call him John Doe because the B-A-T-F says it cannot disclose his identity—who in 1978 was convicted of criminal reckless homicide. He killed another driver while driving drunk. Although, as a convicted felon, John Doe was prohibited by law from buying guns, he purchased a handgun from a gun dealer in December 1993. Then, only 1 month later in January 1994, he purchased another. On both occasions he walked out of the gun store fully armed.

How could he do this? He lied on his forms and no one conducted a background check. A few weeks later John Doe tried to increase his arsenal yet again by purchasing a third handgun. But this last time he was caught—thanks to the background check that is now required under the Brady law.

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Liddy. I suppose at a future Republican senatorial dinner, we will see both of them doing a duet.

WE HAVE TO GET OUR FINANCIAL HOUSE IN ORDER

(Mr. SCARBOROUGH asked and was given permission to address the House for 1 minute.)

Mr. SCARBOROUGH. Mr. Speaker, this Congress faces two challenges in the next 100 days and in the rest of this session. We have got to get our financial house in order. We have got to finally balance the budget, do it for the first time since 1969. The second thing we are going to have to do is finally get Medicare costs under control. A report by President Clinton's own task force shows that Medicare goes bankrupt by the year 2002. We have got to do both of these things at the same time, and it is going to call for heavy lifting, and it is going to call for bipartisan support.

I ask the Democrats today to come forward with a plan that not only saves Medicare but also balances the budget by the year 2002. If they are not willing to take part in the process, I ask that they step back and let the Republican Party do it, along with other conservative Democrats who are just as concerned about this very important issue. We have no choice. We must take care of Medicare and we must balance the budget by the year 2002, or it is the senior citizens who will suffer in the end.

COMMENDING THE FEDERAL EMPLOYEES WHO SERVE THE PUBLIC

(Mr. OLVER asked and was given permission to address the House for 1 minute.)

Mr. OLVER. Mr. Speaker, the deadly bombing 2 weeks ago in Oklahoma City has had a chilling effect on our Nation.

More than 100 Federal employees died.

They died because a few used violence to express their hate for the American Government.

We are angry. We want justice.

Our healing has barely begun.

As we mourn with the families of the victims, let us remember that Federal employees are not nameless, faceless bureaucrats. They are people. They help others every day.

In my district many Federal employees help us in our everyday lives.

I am reminded of Jeffrey Reck who serves as district manager of the Social Security Administration in Fitchburg, MA.

Jeff helps people get the benefits they deserve.

He gets answers. He gives people the personal help that we all need from our Government. He treats people like people.

Jeff's work is a tribute to his fallen colleagues and to Federal employees everywhere. I commend him and so many thousands who serve the public.

PROTECT MEDICARE

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, I rise today to say to my Republican colleagues, it is time to deliver on your promises.

You said you would cut taxes, balance the budget, and leave Social Security and defense intact. Now tell us: How will you do it?

To date the Republicans have raided the Medicare trust fund to pay for their tax cuts for the rich. Their tax bill takes $27 billion away from the Medicare trust fund and from our Nation's senior citizens.

In 1993 and again in 1994, the President and the Democrats took action to make the Medicare Program stronger. And, we did it over the loud protests of my colleagues on the other side of the aisle.

I say to my Republican colleagues, don't take health care from our senior citizens to pay for tax cuts for the rich. That is not Medicare reform. And our senior citizens will not be fooled.

APPOINTMENT OF MEMBER TO ACT AS CHAIRMAN OF REVIEW PANEL ESTABLISHED BY RULE 51 OF THE RULES OF THE HOUSE

The SPEAKER pro tempore (Mr. INGLIS of South Carolina) laid before the House the following communication from the Honorable WILLIAM M. THOMAS, Member of Congress:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOUSE OVERSIGHT,
Washington, DC, May 1, 1995.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to House Rule 51, clause 7, I have appointed the Honorable Vernon J. Ehlers as chairman of the review panel established by that Rule for the 104th Congress.

Best regards.

BILL THOMAS,
Chairman.

NEW DEREGULATION FOR TELECOMMUNICATIONS

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I just wanted to advise and introduce to the Members that we had a telecommunications press conference today offered through the Committee on Commerce a new deregulatory bill which will allow mass communications to change dramatically, and I had the honor to offer as an amendment to this bill new broadcast ownership changes to allow many new forms of ownership for video broadcasting. It is bipartisan bill.

Basically it reduces restrictions on ownership of broadcasting stations and other media mass communications. As I mentioned, it repeals antiquated rules and regulations and brings broadcasting up to date with technology. The bill states that the FCC does not provide or enforce any regulations concerning cross ownership. The details of this will be in a statement that I will put in the extension of my remarks today.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

COMMUNICATIONS ACT OF 1995

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. FIELDS] is recognized for 5 minutes.

Mr. FIELDS of Texas. Mr. Speaker, this morning, I introduced on behalf of myself, Chairman TOM BLILEY, our Republican Members, and Democrat cosponsors, the Communications Act of 1995. Hearings are planned for Wednesday, May 10, Thursday, May 11, and Friday, May 12.

Truly, this is a watershed and historic moment for the telecommunication industry, our country, and the consuming public.

This legislation meets several broad objectives:

First, and foremost, the legislation gives definition and certainty as we move into this time of convergence and technological innovation.

Second, this legislation is much more deregulatory than the telecommunications legislation, introduced and passed last year. This legislation recognizes that the 1934 act is outdated—a dinosaur—and coupled with a hodgepodge of FCC administrative decisions and Federal court decisions, the telecommunications industry could be stifled and the consumer denied better products and services at lower costs unless we pass this historic legislation.

Third, great attention was paid in creating level playing fields—an atmosphere of legislative parity so that the rules are fair to all competitors as new lines of business are entered.

Fourth, it was our goal and objective for our legislation to be dynamic so that it evolves with and recognizes new technology and its applications.

Fifth, our legislation is predicated on competition and an opportunity model not government, be it Federal or State micromanagement.

I can't stand up here and tell you that the Communications Act of 1995 is perfect or that it will not change; of course, the legislative process itself is dynamic.

But, I can tell you that there has been much consultation with industry leaders, consumer groups, States and cities, with our members and between our respective staffs, and it should be recognized that this legislation builds on the foundation of the 14 months of

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negotiation between ED MARKEY and me last session and the 4 months of discussion and negotiation this year.

In January, we had very constructive meeting with CEO's from broadcast, computer, long distance, cable and satellite, telephony and wireless industries. The checklist approach in opening the local loop originated as a result of these meetings. Rather than a date certain, the regional Bell operating companies receive a date certain which is uncertain, meaning that if their loop is open, they could begin offering long-distance service as early as 18 months after the date of enactment. The long-distance companies said they could compromise on the involvement of the Justice Department if a certain number of requirements were met, meaning that the local loop is really open to competition. The checklist requirements which must be met are: interconnection and equal access, unbundling, number portability, dialing parity, resale, access to conduits and rights of way, elimination of franchise limitations, network interoperability, good-faith negotiation, and facilities-based competitor.

Our legislation gives pricing flexibility to telephone companies, eliminating the rate-of-return concept, and totally eliminating all pricing regulation when a telephone company has competition.

Bell operating companies can enter manufacturing when they have met interconnection and equal access requirements with no separate subsidiary required.

Bell operating companies are allowed to provide electronic publishing through a separate subsidiary with safeguards and a prohibition against cross-subsidies and discrimination against unaffiliated electronic publishers. This provision sunsets in the year 2000. The BOC's are not allowed to offer alarm monitoring service before July 1, 2000.

Broadcasters receive the ability to compress their signal under the spectrum flexibility language. There is also a streamlining of the broadcast license process and an extension of the length of the license from 5 to 7 years.

Direct broadcast satellite services will be exempted from State and local taxation laws.

Congressman SCHAEFER has composed a package of cable provisions which are part of the bipartisan bill. We deregulate the small cable provider upon enactment and deregulate the upper tier of larger companies at about the time that the telephone company will begin operating a cable service.

Congressman STEARNS will offer his bill as an amendment to raise broadcast ownership caps quickly and eliminate cross-ownership restrictions. VHF-VHF combinations could be restricted if it were determined that they would restrict competition or the diversity of voices in a local market.

Congressman OXLEY will offer an amendment to remove foreign ownership restrictions on domestic telephone and broadcast companies.

Congressmen GILLMOR and BOUCHER will offer an amendment to remove restrictions that prohibit the entry of those companies governed by the Public Utility Holding Companies Act into telecommunication services.

We stand here today with broad and deep bipartisan support; telecommunication policy should not be Democrat or Republican.

We feel that this legislation serves the consumer; that this legislation gives the definition and certainty for the industry to move forward and to build the information superhighway.

This will be an evolutionary and dynamic process—but now unleashed, our legislation will pass this committee and the House—there will be a conference with the Senate and a bill will be presented to the President and signed into law, because that's good for the country and our consuming public.

Mr. BLILEY. Mr. Speaker, today is a historic moment. Today we introduce the Communications Act of 1995, one of the most sweeping reforms of communications law in history. No law can stop the advancement of technology, but bad and antiquated laws can stop consumers from enjoying the fruits of technological progress. And that is what we have today: Americans not able to enjoy the full range of technologically feasible telecommunications services because technology has outpaced the state of the law.

MORE COMPETITION

The legislation that we are introducing today will bring competition to the local telephone and video markets—two traditional monopolies. Many companies would like to have the opportunity to compete for local telephone service. But the laws and regulations of this land effectively prohibit them from competing for business and offering innovative services, higher quality services, and lower priced services. American consumers want the choices that competition provides. The Communications Act of 1995 will give them those choices.

The bill sets the rules of the road for opening the local exchange to competition. It requires the presence of a competitor in the local exchange prior to allowing a Bell operating company to apply for entry into long distance.

Current laws restrict firms from entering other telecommunications markets as well, and the American consumer ultimately suffers. Telephone companies are prohibited by law from offering video services. The competition for higher quality and lower priced services that these and other firms could bring to the home video market would only benefit consumers. The bill will give broadcasters greater freedom to use spectrum creatively to offer new services. The bill will ultimately lead to more competition for electronic publishing, alarm, and telemessaging services.

LESS REGULATION

In short, the Communications Act of 1995 will promote competition in practically all telecommunications markets. But the mere presence of many firms competing in the current American telecommunications would not be enough to make consumers as well off as they could be. American telecommunications markets today are burdened with excessive regulations.

Firms that offer telecommunications services in the United States have artificially high costs because of: First, the high costs of complying with regulations, second, the length of licensing procedures, and third, the uncertainty of the outcome of licensing procedures. Who pays for the high cost of regulation? As always, it is the poor American consumer who pays the price. These costs of regulation are passed along to telecommunications consumers in the form of high prices for services, a lack of responsiveness to new market conditions, and a slow rate of innovation.

The Communications Act of 1995 would harness and substantially reduce Federal regulation of telecommunications. The act streamlines licensing procedures for broadcasters. The act creates temporary rules that promote a transition to competition. After the transition, most of the act sunsets. The act requires the Federal Communications Commission to forbear from—to stop—regulation. Much of the act would be largely administered locally rather than federally. The act would prevent States or the Federal Government from requiring costly rate-of-return regulation. Once telecommunications markets are competitive, price regulation would be banned altogether.

GREATER BENEFITS TO TELECOMMUNICATIONS CONSUMERS

American telecommunications consumers will be the beneficiaries of the Communications Act of 1995. Less regulation will lead to lower costs. More competition will lead to greater innovation, greater choice of services, and lower prices. Today we embark on the effort to fulfill these promises to the American telecommunications consumer.

Mr. OXLEY. Mr. Speaker, today's introduction of a telecommunications law rewrite is a landmark compromise that culminates years of work. I'm proud to be an original cosponsor of the Communications Act of 1995. The bill has already attracted significant support among Democrats, thanks to the leadership of subcommittee chairman JACK FIELDS.

America is poised to lead the world in communications technology. This procompetitive, anti-regulatory legislation will help us make the most of the greatest economic opportunity in the history of the world.

The United States should pursue two basic strategies during this transition into the information age: to increase competitiveness among U.S. companies to inspire more choices, better programming, and more efficient service for U.S. consumers, and to export aggressively so U.S. companies will prosper and hire American workers.

I will offer a free trade amendment to the bill to repeal restrictions on foreign investment that date back to World War I. The foreign ownership restriction is a telegraph law that has no place in a telecommunications age.

Section 310(b) of the 1934 Communications Act prohibits any foreign entity from holding an investment of more than 25 percent in U.S. broadcast facilities or common carrier companies. It was passed to guard against foreign sabotage when a limited number of information sources existed. When U.S. firms seek to sell telecommunications goods and services abroad, foreign governments point to U.S. market restrictions as justification for theirs. This is a distressing reality for U.S. companies seeking to create new jobs here at home.

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Telecommunications is one of the Nation's most dynamic export industries, expected to account for one-sixth of the domestic economy by the year 2000. The global telecommunications services industry alone will generate almost $1 trillion in revenues by the end of the decade.

I look forward to a constructive hearing and markup process on this bill, and I believe we will achieve our goal of enacting a modern telecommunications policy this year.

Mr. GILLMOR. Mr. Speaker, the telecommunications bill we are introducing today is one of the most important bills to be considered in Congress in many years, and its passage will have a tremendous impact in America for decades to come.

If this legislation is enacted, the law will begin to foster economic and technological development, instead of hamper it. The bill will provide consumers and businesses new communications services, an increase in choices in the marketplace, more competition and better prices.

The bill represents the biggest single deregulation of a major industrial sector in American history, involving one-seventh of the U.S. economy and affecting virtually every American citizen.

In addition to the provisions of the main bill, I have introduced a measure to allow public utilities to enter the telecommunications industry. Right now utility companies have the technological capacity to offer cable and telephone services, but they do not have the legal capacity. This legislation I am sponsoring with Representative RICK BOUCHER would allow public utilities this entry, further increasing competition and reducing prices for consumers.

Mr. BARTON of Texas. Mr. Speaker, today Commerce Committee Chairman TOM BLILEY, and Telecommunications Subcommittee Chairman JACK FIELDS, introduced the largest telecommunications reform bill ever to go through Congress. I am proud to be an original cosponsor of this historic legislation.

The Communications Act of 1995 will be the biggest job creation bill to pass this Congress. The legislation moves a number of currently heavily regulated industries into true market competition with each other, thus ensuring consumers real choices as to who to place their local telephone, cable television, and electronic data business with. The bill, when it becomes law, puts the consumer in the driver seat for all of his or her communications needs.

It is the most comprehensive, promarket and procompetition bill introduced for these services in the history of the Congress. The current telecommunications laws were passed over half a century ago when there were few radios, television existed only in the laboratory, and computers had not even been thought of. Today, telecommunications services are expanding daily and our laws should be expanded accordingly. Congress should quickly move ahead with this reform effort to meet the new challenges facing us today.

I support this deregulatory approach that will promote growth and competition in the telecommunications industry. If we can create a fair marketplace for telecommunication services, the industry, through competition, will create the much-touted information superhighway in a less expensive and more efficient fashion.

Mrs. LINCOLN. Mr. Speaker, I'm pleased to be an original cosponsor of H.R. 1555, the Communications Act of 1995. I'd like to thank Mr. FIELDS and Mr. MARKEY, Mr. DINGELL, and Mr. BLILEY for their commitment to this legislation.

I'm proud that this issue has remained a priority and that we have been able to build upon the legislation that passed the House of Representatives during the last Congress.

Once again, I have a special interest in keeping telephone rates in rural areas low while protecting small- and medium-sized phone companies from unfair competition. I have appreciated Chairman FIELDS' willingness to work with me on this issue throughout the drafting process. This bill, as introduced today, offers several protections for rural carriers, but I realize that it does not go far enough. Today, I pledge my commitment to improving this bill as it moves through the Commerce Committee. I have encouraged my colleagues to look at the Senate language regarding rural carriers, which exempts carriers who have 2 percent or fewer of the access lines nationwide, because I would like to see this bill move in that direction. As a start, Mr. FIELDS has assured me that we can amend this bill to exempt carriers that provide telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines. I appreciate his willingness to work with me and his commitment to protecting and preserving rural America.

Mr. Speaker, for rural America, this bill represents an amazing opportunity for advancements in education, among other things. I was pleased to see provisions to ensure that educational institutions will have access to this growing technology. Additionally, I pledge to work toward enhancing this bill to ensure that health care providers will be able to tap into resources to expand their infrastructure to provide telemedicine, which is essential to rural areas like the First Congressional District. This will be vital in delivering services that will help up keep up with advances in larger cities while preserving the quality of life we enjoy.

I look forward to working with my colleagues on the Commerce Committee to build upon this legislation and bring a bill to the House floor that this body can approve with the overwhelming support that we saw in passage of H.R. 3636 and H.R. 3626 during the last Congress.

Mr. STEARNS. Mr. Speaker, I am pleased to give my full support for the Communications Act of 1995 which the Subcommittee on Telecommunications and Finance introduced today with bipartisan support. I commend Chairman BLILEY and Chairman FIELDS for the outstanding work they did on this much-needed legislation.

I would also like to thank the staffs of both the subcommittee and full committee for their efforts in getting this legislation drafted and wish to commend them for the open and fair manner in which they achieved writing this groundbreaking legislation. This bill provides sweeping reforms in the communications industry and gives consumers a greater choice of services. This legislation will provide lower prices and higher quality. Clearly, the consumers will be the winners.

The antiquated Communications Act of 1934 needs to be updated to ensure that the American telecommunications industries will be able to compete in this high-technology information age in which we are living. This legislation encourages competition and deregulation, thereby opening up future market opportunities for those who wish to compete in all telecommunications services. Comprehensive reform of this industry is long overdue and I am proud to cosponsor this bill which will achieve that goal.

Mr. DINGELL. Mr. Speaker, today I joined many of my colleagues on the Commerce Committee in the introduction of H.R. 1555, the Communications Act of 1995. I would like to congratulate the chairman of the Commerce Committee, Mr. BLILEY, and the chairman of the Subcommittee on Telecommunications and Finance, Mr. FIELDS, for their cooperation and work in drafting this landmark piece of legislation.

This legislation closely tracks the legislation overwhelmingly passed by the House last year, H.R. 3626. That bill passed by a vote of 423 to 5, and it is my hope that H.R. 1555 will have the same level of support when it goes to the floor.

The legislation does several important things. It removes the artificial barriers to entry that restrict competition in several telecommunications markets. Upon the enactment of this bill, telephone companies will be permitted to offer cable service. Cable operators will be able to offer telephone service. Long distance companies will be able to resell local telephone service. And ultimately, the Bell operating companies will have the ability to enter the long distance market.

The dismantling of these barriers to entry will result in several significant improvements for the American public. Perhaps most importantly, services that have traditionally been offered by regulated monopolies will become competitive. Cable operators will have to fight with telephone companies to attract—and keep—consumers. Telephone companies will face a variety of competitors, each seeking new and innovative ways to attract subscribers. The long distance industry will face the entry of seven large, well-financed competitors.

The result, for the American public, will be lower prices and greater responsiveness to the needs of consumers.

In addition, we are likely to see the pace of innovation accelerate. Markets that heretofore have been responsive to Government edict will listen to consumers. Companies will refine their marketing efforts to make certain that consumers come first.

And by allowing competition across the telecommunications landscape, competitors are likely to create packages of services that appeal to consumers. Consumers can have the option of one-stop shopping, in which local and long distance telephone service can be obtained from a single vendor. Cable subscribers will be able to obtain a package that also includes telephone service. Consumers will be able to obtain greater convenience and save money—or, if they choose, they will still be able to purchase their service on an a la carte basis from a variety of service providers.

This is a good bill. But like any piece of legislation, it can be improved. I am particularly troubled by the provisions that end the regulation of cable rates on the day that the Federal Communications Commission issues its rules governing the offering of cable service by telephone companies. My concerns are shared by

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many of the Democratic members of the committee; they are shared by the administration; and I think it's likely that we will see some amendments to ensure that consumers are not gouged by monopolies until a competitive alternative is available.

But despite my reservations about this provision, I expect that we will be able to resolve our differences here in a manner comparable to the way we have developed a consensus on the other provisions of this bill. In that regard, I would like to commend both Chairman BLILEY and Chairman FIELDS for the manner in which they have treated the Democrats during the drafting process. This has been a truly bipartisan process, and the legislative text that was introduced today reflects the many compromises and changes that were made by both sides.

Telecommunications issues have never been partisan, and have never been ideological. The manner in which the majority has treated the minority in this case is exemplary, and it is my hope that it will serve as a model for the many legislative initiatives we have before us. I would like to thank both of these fine legislators, and look forward to continuing this bipartisan approach as H.R. 1555 moves through the House.

Mr. Speaker, H.R. 1555 is a good bill, and before it is sent to the President for his signature, it will be a better bill. I urge my colleagues to join with us in support of this legislation, and enact a statute that will enable the telecommunications industries to bring to the American people the benefits that the twenty-first century has to offer.

Ms. ESHOO. Mr. Speaker, I rise to inform Members about the introduction of the Commerce Committee's historic legislation to reshape our Nation's telecommunications laws.

I'm proud to be an original cosponsor of this legislation and commend Commerce Committee Chairman BLILEY, Telecommunications and Finance Subcommittee Chairman FIELDS, and ranking members JOHN DINGELL and ED MARKEY for their efforts to produce a bipartisan bill.

The Nation cannot wait another year for telecommunications reform. The current law of the land for telecommunications is based on a law written in the 1800's to govern railroads in America. Now, after several decades of extraordinary advances in information technology, most of our Nation's telephone system consists of a pair of copper wires.

As the Representative from Silicon Valley in California, I know the importance of deregulation to computer and software technology. Information technologies are the business of Silicon Valley.

I believe we can look to the computer and software industries as examples of good things to come for the communications industry if competition can be established.

Consider the first digital computer made in 1943 which was 8 feet high, 50 feet long, contained 500 miles of wire, and could perform about three additions per second. Today, consumers can purchase a computer with wafer-thin microprocessors which are capable of hundreds of millions of additions per second and fit on your lap.

Yet today's twisted copper wire telephone network is unsuitable for modern computers and software applications which can incorporate voice, video, graphic, and data transmissions and send them simultaneously in real-time exchanges.

A technology gap exists between the information technology and communications industries and this hurts our international competitiveness. This bill can help close the gap, encourage competition, and foster increases in high technology exports and jobs.

A successful telecommunications bill should pass two critical tests. First, it should establish a process which brings the greatest competition to bear, and second it should promote technology innovation and production in a way that can make a difference in peoples' lives.

This bill is a step forward in meeting these important goals and I'm proud to cosponsor it.

GENERAL LEAVE

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of the special order today by the gentleman from Texas [Mr. FIELDS].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

FINANCIAL SERVICES REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LAFALCE] is recognized for 5 minutes.

Mr. LAFALCE. Mr. Speaker, the House has a unique opportunity during this Congress to take important and long-overdue steps to modernize the U.S. financial services system and prepare it for the competitive challenges of the 21st century.

In 1991, I served as chair of the Banking Committee's Task Force on the International Competitiveness of U.S. Financial Institutions. That task force concluded that our financial services policy had failed to keep pace with new market developments, including changes in corporate and individual consumer needs, new technology and product innovation. The result was a financial services system that was potentially uncompetitive, inefficient, unduly expensive, and slow to respond to changing customer demands.

The task force report concluded that it was incumbent upon policymakers to undertake a fundamental and comprehensive reassessment of the major laws and the regulatory structure which underpin the U.S. financial system. There have been several abortive efforts since that time to do so. But I believe we have now finally achieved substantial consensus that change is necessary, the circumstances are now ripe for meaningful action, and the goal is within our reach.

The chairmen of both the House and Senate Banking Committees have put forward comprehensive reform proposals. While these proposals differ in important regards, they share many key elements. The Treasury Department has put forward a proposal of its own that is substantively comparable in many critical respects. In addition, the affected industries are engaged in meaningful and substantive discussions on the key issues in an effort to achieve some consensus.

While differences in perspective certainly exist, what is most noteworthy is the widely shared assumption that our financial services system requires substantial reinvention. If we can keep our eye on this shared goal, we should be able to build upon the many points on which we all agree and effect reasonable compromise where we do not in the days ahead.

To that end, while I have very definite ideas of my own as to the best course of action on key issues, I do not plan to introduce legislation at this point. A Banking Committee markup is imminent, and we will be working from the chairman's mark—which is still in preparation—as is appropriate. I believe our best prospect of success lies in working cooperatively and in a spirit of compromise to further refine that mark in a way that builds consensus on these important issues. Past experience should certainly have taught us that legislation which does not reflect a reasonably broad consensus is doomed to failure.

I. PRINCIPLES TO GUIDE DELIBERATIONS

I would, however, like to set forth some principles which I believe should guide our deliberations.

(A) Congress should attempt to achieve the broadest reform possible;

(B) Elimination of the barrier between commercial and investment banking should be accomplished so as to maximize efficiencies and take advantage of possible synergies between lines of business, while safeguarding safety and soundness;

(C) Reform should create a true two-way street between banks and securities firms, level the competitive playing field, and provide such firms equal opportunity to enter each other's businesses;

(D) Nothing we do should turn the clock back or impose new restrictions where none are warranted;

(E) Safeguarding consumer rights and interests should be an integral part of any reform package;

(F) Proper regulatory oversight should emphasize functional regulation, ensure necessary political accountability, and take advantage of the benefits provided by a creative tention between regulators; and

(G) Reform should ensure that foreign banks have a fair opportunity to compete on equal terms, and are not competitively disadvantaged.

II. THE NEED FOR REFORM

A. The need for broad reform.

It is imperative that we strive for the broadest financial services reform on which it is possible to achieve consensus. This is not a time to be timid.

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EXTENSIONS OF REMARKS

H.R. 961, THE CLEAN WATER AMENDMENTS ACT OF 1995

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1995

Mrs. COLLINS of Illinois. Mr. Speaker, I oppose H.R. 961, the Clean Water Amendments Act of 1995. It is interesting that the Republicans have continually claimed to have an interest in bringing common sense to the legislative process and yet they are now proposing taking one of the most successful environmental laws on the books and recklessly and nonsensically gutting it. This Dirty Water Act is a threat to our health and should be rejected soundly.

Almost half of the lakes and rivers in America are currently so polluted that it is not safe to fish or swim in them. The Clean Water Act was passed to improve this horrific situation and has been steadily improving the quality and the safety of the waters across our country. Yet, now, with our environment still not even close to the level of clean that it needs to be, the Republicans are foolishly working to overturn and undermine this most critically important clean water law.

In the State of Illinois, as in the other 49 States, substantial improvements in the quality of water have been made over the past 20 years but there is still a long way to go. In fact, 91 percent of Illinois' lakes and 55 percent of our rivers and streams are not safe for fishing or swimming or are so dead from pollution that they cannot support aquatic life. H.R. 961 would halt the progress that has been made so far and dangerously jeopardize the future health of Illinois' waterways through several damaging provisions.

First, the bill would undermine the Great Lakes initiative which seeks to control the amount of toxic chemicals being dumped into Lake Michigan and the other Great Lakes. Since this is the source of drinking water for my constituents, the quality of Lake Michigan's water is of primary interest and concern. Currently, because of high levels of mercury and PCB's, there is an advisory for women of child-bearing age, pregnant women, and children not to eat more than one fish meal per month from Lake Michigan. Lake Michigan trout now contain PCB levels that are more than 180 times their target and likely cause thousands of cancer deaths in the area.

The Great Lakes initiative seeks to improve this situation by organizing the Great Lakes border States in a unified Federal-State partnership to clean up the Great Lakes. This model initiative should be promoted and encouraged rather than weakened and undermined as H.R. 961 seeks to do.

In addition, H.R. 961 dramatically alters the definition of wetlands that are protected and eliminates the current legal protection for 70 percent of Illinois' wetlands. We need only think back to the Mississippi floods of 1993 to remember how critically important wetlands are to flood protection. Illinois has already lost 90 percent of its acres of natural wetlands and this loss of nature's flood absorption system has caused billions of dollars worth of damages. The Illinois State Water Survey estimates that every one percent increase in wetland acreage would lead to a four percent decrease in flood levels. It seems extremely short-sighted and risky to me to further reduce our wetlands and cause even more severe flooding in the years ahead.

Further, the Dirty Water Act does not address the critical issue of polluted run-off. Polluted runoff from fields, roads and cities is Illinois' number one water quality problem. It was also responsible for the cryptosporidium outbreak in Milwaukee that caused 400,000 people to become ill, and 130 children, senior citizens, and people with AIDS to become seriously or fatally ill in 1993. Seemingly, after the tragedy in Milwaukee, this bill would be used as an opportunity to take specific steps to address polluted run-off problems.

Mr. Speaker, the recklessness of this bill astounds me. Our lakes and streams are so polluted that they are almost unusable and they are posing a direct threat to our health. How much further do we want to go? Do we want to wait until all the fish die and every city experiences a Milwaukee-like tragedy? This is certainly not what my constituents want to see and I will not stand by and allow our lakes and streams to be turned into sewers. I urge my colleagues to join me in rejecting this dangerous bill.

TRIBUTE TO THE MEMBERS OF THE RETIRED AND SENIOR VOLUNTEER PROGRAM

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1995

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to the members of the Retired and Senior Volunteer Program [RSVP]. Tomorrow afternoon, Friday, May 19, 1995, the RSVP of Macomb County is saluting the many seniors who provide vital volunteer services at a luncheon in Clinton Township, MI.

The Retired and Senior Volunteer Program is a nationally recognized program for persons over 55 who serve as volunteers in their communities. In the 10th Congressional District, Catholic Services of Macomb sponsors RSVP at the local level.

By matching the talents, knowledge, and interest of volunteers with community needs, the RSVP maximizes its services provided to the needy and ill among us. RSVP volunteers serve in schools, hospitals, community centers and with numerous social, health, and welfare organizations. Last year, 433 registered volunteers performed over 50,000 hours of service and assisted 55 nonprofit agencies. The devotion RSVP volunteers have displayed to their community is an inspiration. Their contributions are many and they deserve our gratitude for their compassion and work.

Taking an active role in one's community is a responsibility we all share, but few fulfill. I applaud all of the RSVP members who rather than retire to the easy chair, continue to serve our communities.

I commend the members of the Retired and Senior Volunteer Program for their efforts and encourage them to continue their good work. Please join me in saluting the RSVP of Macomb on the event of their volunteer recognition luncheon.

HONORING JOHN VINCENT FIORE ON HIS RETIREMENT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1995

Mr. TORRES. Mr. Speaker, I rise today to recognize, John Vincent Fiore, vice president, trade relations of Pepsi-Cola West. Mr. Fiore is retiring from Pepsi-Cola after 41 years of service.

Mr. Fiore attended Northwestern University and specialized in business management and advertising. Prior to joining Pepsi-Cola, he served in the U.S. Army.

He has been an active member of the Mexican-American Grocers Association, California State Package Store and Tavern Owners Association, Korean Grocers Association, Chinese Grocers Association, and the National Conference of Christians and Jews. He is the past president of RecyCal and a member of the political affairs committee for the California Nevada Soft Drink Association.

In addition, under Mr. Fiore's direction, Pepsi-Cola has become actively involved with community youth programs in an effort to guide young people in the right direction. Pepsi-Cola has participated in public awareness programs such as Just Say No To Drugs and Don't Drop Out Of School. In his community and company, he has made contributions to the minority community so that it may grow and prosper.

Mr. Speaker, it is with pride that I rise to recognize my friend, John V. Fiore, and I ask my colleagues to join me in saluting him for his outstanding commitment to his community.

PUBLIC BROADCASTING

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1995

Mr. OXLEY. Mr. Speaker, 30 years ago, the creators of public broadcasting proposed funding it through a trust fund capitalized by various fees and taxes on commercial broadcasters. The proposal went nowhere.

Like other government-funded agencies today, public broadcasting is being asked to

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reinvent itself. The leaders of CPB, NPR, and PBS have been specifically challenged to come up with new sources of funding to replace tax dollars. Given the realities of the deficit, public broadcasters were strongly encouraged to be innovative and far-reaching in their thinking, to take full advantage of the tremendous changes now taking place in the telecommunications marketplace and the resulting opportunities to get public broadcasting off the Federal dole.

And what have they come up with? PBS has proposed a trust fund capitalized in part by fees from commercial broadcasters and in part by allocations from the Government's sale and auction of spectrum, and CPB says that "no combination of cost savings and new sources of revenue can fully 'replace' the Federal subsidy."

Anyway you look at them, the plans rely on Government funding, slightly repackaged and devoid of a marketplace solution. Where is the vision so desperately needed in order to reinvent public broadcasting for the 21st century? Where is the innovative thinking in proposing an idea that died 30 years ago? Why should commercial broadcasters subsidize public radio and television when they themselves are faced with an increasingly competitive marketplace?

It is time for public broadcasting to reach beyond the tired proposals of bygone days and look for truly bold solutions for replacing Federal funding. It is time to look to the marketplace for ideas, alliances, and opportunities. Public broadcasting is a valuable network of local community institutions which has an intensely loyal audience. Surely this presents opportunities for more innovative solutions.

I believe we can find a way to preserve the educational mission of public broadcasting in the context of today's telecommunications market without relying on Federal funding, whether is direct appropriations or redirecting Federal revenues into a trust fund. For public broadcasting to remain viable, its leaders must first recognize that the congress will cut the umbilical cord to the Federal Treasury.

TRIBUTE TO LEROY WESLEY WATTS, JR.

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1995

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise to honor the memory of LeRoy Wesley Watts, Jr., professor emeritus of social work at Eastern Michigan University.

Some people are able to reach young people at definitive moments in their lives—and open new vistas of insight and opportunity to them. Such a man was Professor Watts. He served in key academic and administrative roles within Eastern Michigan University, was instrumental in the development of the university's African-American Studies Department, and advocated for minority and disabled students. Roy sat on the boards of several civic and professional organizations that focused on health and social welfare and worked quietly but ceaselessly to make the world a better place for us all. He was a friend and mentor to many students and encouraged them to continue educational programs that they likely would not have completed without his intervention. Roy was recognized for his humility, compassion, and abiding respect for the light in each of us.

REMARKS OF CONGRESSMAN DICK ZIMMER COMMENDING THE NEW JERSEY STUDENTS WHO PARTICIPATED IN THE BEES PROGRAM

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1995

Mr. ZIMMER. Mr. Speaker, I rise today to pay tribute to more than 80 high school students from Hunterdon County, Princeton and Trenton who give us hope for our Nation's environmental future. As part of an innovative pilot project called Building Environmental Education Solutions [BEES], these students have spent the last 2 months examining the complex public policy choices that we face when addressing environmental issues.

Focusing on an abandoned industrial site in Trenton, this diverse group of students explored the many issues surrounding the reclamation and redevelopment of the property. The students were required to analyze the potential environmental and economic trade-offs, perform comparative risk assessments and evaluate the arguments of the various stakeholders.

On Monday, May 22, the students will present their findings, which I plan to distribute to each of my colleagues in the hope that we can learn from such an intense examination of these very difficult issues.

I would also like to thank and congratulate the coalition of business, community groups and government agencies that made the program work, particularly the American Re-Insurance Corp. of Princeton, which spearheaded the effort. This program is an example of the type of responsible environmental activism that benefits all segments of society, but is most effective when government and business work together.

Mr. Speaker, through programs like this one, we can prepare a generation of decisionmakers who appreciate the interdependence of the environment and the economy. I congratulate the students for their accomplishments and thank them for assuming the responsibility for protecting our precious natural resources in the 21st century and beyond.

HEAD START

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1995

Mr. OLVER. Mr. Speaker, I rise to pay tribute to Head Start.

Head Start is 30 years old today.

Over those 30 years, 13 million low-income kids have gotten their head start for success.

Parents and staff have worked together to give poor kids a better chance in school.

But today is not a happy day for Head Start.

On the very day we should be celebrating 30 years of success—funding for Head Start is about to be slashed.

The budget resolution we vote on today freezes funds for Head Start for the next 7 years. This translates into a $1.4 billion cut from current funding. Millions of low-income children will be cut off.

Why are we denying kids their head start on life? Because the Republicans want to give tax breaks to the wealthiest Americans, whose kids will never be at an educational or economical disadvantage.

What an inappropriate birthday present. Happy Birthday, Head Start.

INDIA SHOULD RELEASE SIKH LEADER

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1995

Mr. BURTON of Indiana. Mr. Speaker, I rise today to again speak about the human rights situation in India, which is deplorable. I want to speak about two issues today. The first is the destruction of a centuries-old mosque in Kashmir. The second is the continued imprisonment of Sikh leader Simranjit Singh Mann.

The half-a-million Indian security forces in the valley of Kashmir have for years run rampant over the civilian population there. They have gang-raped women. They have tortured and murdered political prisoners. They have shot indiscriminately into civilian crowds, and they have burned entire villages into the ground.

Just last week, in the town of Charar-e-Sharies, the Indian military, with no regard for the safety of civilians, launched an attack that resulted in the burning of hundreds of homes and the gutting of a centuries-old walnut-wood mosque, one of the most famous religious sites in Kashmir. The Indian Government, time and time again, has shown absolute disregard for basic standards of human rights in Kashmir, Punjab, and other areas. India must be held to account for the crimes that have been committed against the Muslims of Kashmir, including the destruction of the sacred shrine of Charar-e-Sharies. The Indian Government's utter disregard for Moslem mosques and other holy places is shocking and must not be swept under the rug.

The Indian Government must also be held to account for the horrible human rights abuses committed against the Sikhs in Punjab and the Christians of Nagaland. Few people know about what is happening in those areas because the government will not allow the media or human rights groups into those areas.

Indian paramilitary forces in Punjab are responsible for thousands of cases of well-documented disappearances and extrajudicial killings. Thousands of Sikhs are held in prisons throughout Punjab, and human rights groups have reported that virtually all Sikhs held in prison are routinely tortured.

Four months ago, I came to the House floor to talk about the detention of Sikh leader Simranjit Singh Mann. Mr. Mann is a former member of Parliament and probably the most prominent of all the Sikh leaders. He has been a forceful, but peaceful, advocate of independence for a Sikh homeland called Khalistan. Mr. Mann was arrested in January after addressing a gathering of thousands and speaking out

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Overall costs of transportation and storage would appear to be lower at these sites.

Therefore, I believe Hanford and Savannah River offer excellent sites for the temporary, dry cask storage of civilian spent nuclear fuel until a permanent geologic repository is available. At this point, I would like to make clear my support for continued progress toward a permanent geologic repository. Hanford and Savannah River already have defense nuclear waste and spent nuclear fuel from defense and research activities that is destined for the permanent geologic repository. This proposal is intended to hasten the day that those wastes, as well as the civilian spent fuel, are sent away from the sites for permanent disposal. I realize that at this time, nobody wants to store nuclear waste. Incentives must be offered. The communities near Hanford and Savannah River will understandably ask, what's in it for us?

I would be prepared to pursue benefits for these communities if they are inclined to take spent commercial fuel on an interim basis only. First, I am working with several of my colleagues to develop legislation that will prioritize DOE cleanups in accordance with actual risks. That approach will result in Hanford and Savannah River being cleaned up faster, since many of the high-risk problems are located there. Second, I am encouraging the privatization of efforts to vitrify—or turn into glass—high-level liquid wastes at Hanford. This is the best way to stabilize the liquid tanks and make them safe.

Third, we are offering new construction and economic activity associated with the construction and operation of an interim, above ground, dry cask storage site. This will help address the job losses and economic declines associated with the end of defense-related activities at Hanford and Savannah River. Fourth, there are other arrangements, including financial incentives, that can be considered. Whether or not DOE continues to exist as a Cabinet-level agency, its functions and operations will be significantly scaled back. As the various DOE sites compete for the remaining missions, special consideration could be given to a site that hosts the interim storage facility. Other benefits to communities agreeing to host an interim storage site can also be discussed.

Finally, to provide assurances to the local communities of Richland/Pasco/Kennewick, WA; Aiken, SC; and Augusta, GA, that the interim dry cask storage sites are not intended to be permanent, work on Yucca Mountain will be continued. Remember, there is already spent nuclear fuel at these sites that is destined for a permanent geologic repository, when one is available. It is in the long-term interest of these facilities to participate in a program that will take care of the immediate problem so that the work on the permanent repository can go forward.

In addition to selecting a site, there are four elements that we should include in a legislative bill dealing with spent nuclear fuel. First, in order to construct a central interim storage facility in a timely manner, changes must be made in the Nuclear Waste Policy Act. These amendments should provide: that licensing of an interim storage facility can begin immediately; that the interim dry cask storage site can be constructed incrementally and that waste acceptance can begin as sections are completed; that the NRC will be the sole licensing authority; short-term renewable licenses to ease NRC rulemaking; and that DOE will be treated like a private licensee.

Second, to help ensure that the spent fuel can be moved from reactor sites to interim storage as soon as possible, a transportation system must be developed. Legislative changes would provide: that utilities are responsible for obtaining casks; that DOE will take title to fuel at reactor site; that DOE will be responsible for delivery; and a clear regulatory regime related to the transportation of spent fuel.

Third, to ensure that Yucca can be licensed, we should streamline licensing provisions, specifying repository performance standards.

Finally, fourth, a budgetary framework must be established that ensures that the money put into the Nuclear Waste Fund by the ratepayers is available to the program in amounts sufficient to achieve the first three goals in a timely and efficient way.

These draft proposals outline a workable and efficient interim storage program that would allow us to pursue the investigation of our permanent disposal options, including a full study of the Yucca Mountain site. However, one lesson we have learned is that we cannot put all of our eggs in one basket. We cannot solve every nuclear waste and spent fuel issue before this country in this Congress. However, we can set up the beginnings of a workable, integrated nuclear waste management system that will allow succeeding generations to apply new technologies to these problems.

In conclusion, I have given a basic outline of principles Congress must address if we are to solve these two major environmental problems. As chairman of the Committee on Energy and Natural Resources, I pledge to continue our goal of reaching a common sense and comprehensive solution. We'd like to do that with the help of President Clinton and his Department of Energy. So far, I have not seen sufficient indication they really want to be a part of any solution. Unfortunately, this issue is not one where America can be without leadership. I will look forward to working with all of those who have an interest and concerns to resolve what is undoubtedly one of America's most frightening problems, the management of waste left at DOE defense weapons facilities, while providing a legislative framework for DOE to meet its obligation to take possession of the Nation's civilian spent nuclear fuel.

FOREIGN OWNERSHIP OF TELECOMMUNICATIONS

Mr. BYRD. Mr. President, the distinguished Majority Leader has indicated that, when the Senate returns from the upcoming recess, it will take up S. 652, the "Telecommunications Competition and Deregulation Act of 1995." As my colleagues are aware, this is a very important piece of legislation dealing with many aspects of the complicated, fast-changing marketplace in telecommunications and the many competing commercial interests in that marketplace.

Of great interest is the international marketplace in telecommunications equipment and services, which is extremely lucrative, and is subject to the many of the same kind of barriers to entry for American companies that we see in other business sectors. Currently, the US Trade Representative, Ambassador Mickey Kantor, has initiated a 301 case against the Japanese in the area of automobile parts, after years of frustration in trying to gain fair entry into the Japanese market—just as the Japanese have access into the American market, and the Senate has strongly endorsed this action. Similar problems exist in the telecommunications field, and the bill as reported from the Commerce Committee includes a provision to protect our telecommunications companies from unfair competition. The provision requires that reciprocity is needed in the international marketplace, and in adjusting the rules for foreign ownership of telecommunications services in the U.S., the host countries of those businesses seeking market access in the U.S. allow fair and reciprocal access to our telecommunications providers in those nations.

This is a case of fairness, and the Committee has wisely included needed leverage for the Administration to prod our trading partners into opening their markets.

Given the highly lucrative nature of the telecommunications marketplace, the stakes of gaining market access to foreign markets are high. It should be no surprise that securing effective market access to many foreign markets, including those of our allies, including France, Germany and Japan has been very difficult. Those markets remain essentially closed to our companies, dominated as they are by large monopolies favored by those governments. In fact, most European markets highly restrict competition in basic voice services and infrastructure. A study by the Economic Strategy Institute in December of 1994 found that "while the U.S. has encouraged competition in all telecommunication sectors except the

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local exchange, the overwhelming majority of nations have discouraged competition and maintained a public monopoly that has no incentive to become more efficient." U.S. firms, as a result of intense competition here in the U.S., provide the most advanced and efficient telecommunications services in the world, and could certainly compete effectively in other markets if given the chance of an open playing field. The same study found that "U.S. firms are blocked from the majority of lucrative international opportunities by foreign government regulations prohibiting or restricting U.S. participation and international regulations which intrinsically discriminate and overcharge U.S. firms and consumers." This study found that the total loss in revenues to U.S. firms, as a result of foreign barriers is estimated to be over $100 billion per year between 1992 and the turn of the century. These are staggering sums.

Thus the administration has adopted an aggressive incentives-based strategy for foreign countries to open their telecommunications services markets to U.S. companies. First, as my colleagues are aware, the negotiations which led to the historic revision of the GATT agreement and which created the World Trade Organization were unable to conclude an agreement on telecommunications services. Thus, separate negotiations are underway in Geneva today to secure such an agreement, in the context of the Negotiating Group on Basic Telecommunications. In the absence of such an agreement, we must rely on our own laws to protect our companies and to provide leverage over foreign nations to open their markets. To forego our own national leverage would do a great disservice to American business and would be shortsighted—the result of which would be not only a setback to our strategy to open those markets, but pull the rug out from under our negotiators in Geneva to secure a favorable international agreement for open telecommunications markets. Indeed, tough U.S. reciprocity laws are clearly needed by our negotiators to gain an acceptable, effective, market opening agreement in Geneva in these so-called GATS [General Agreement on Trade in Services] negotiations.

Second, the bill as reported by the Commerce Committee supports a strategy to provide incentives for foreign country market opening by conditioning new access to the American market upon a showing of reciprocity in the markets of the petitioning foreign companies. Current law, that is section 310 of the Communications Act of 1934 provides that a foreign entity may not obtain a common carrier license itself, and may not own more than 25 percent of any corporation which owns or controls a common carrier license. This foreign ownership limitation has not been very effective and has not prevented foreign carriers from entering the U.S. market. The FCC has had the discretion of waiving this limitation if it finds that such action does not adversely affect the public interest. In addition, the law does not prevent some kinds of telecommunications businesses, such as operation and construction of modern fiber optic facilities or the resale of services in the U.S. by foreign carriers. Nevertheless, maintaining restrictions on foreign ownership is generally considered by U.S. industry to be useful as one way to raise the issue of unfair foreign competition and to maintain leverage abroad. Therefore the bill establishes a reciprocal market access standard as a condition for the waiver of Section 310(b). It states that the FCC may grant to an alien, foreign corporation or foreign government a common carrier license that would otherwise violate the restriction in Section 301(b) if the FCC finds that there are equivalent market opportunities for U.S. companies and citizens in the foreign country of origin of the corporation or government.

Even though Section 310 has not prevented access into our market, the existence of the section has been used by foreign countries as an excuse to deny U.S. companies access to their markets. The provision in S. 652, applying a reciprocity rule, makes it clear that our market, will be open to others to the same extent that theirs are open to our investment. This is as it should be.

Given the importance of this provision, and the tremendous stakes involved in the future telecommunications markets worldwide, a number of issues regarding the provision have been raised, including the role of the President in reviewing FCC decisions, how the public interest standard should be applied, whether our negotiators should have wide authority to exercise leverage among telecommunications market segments, to what extent Congress should be informed and involved in the developing policies which effectively define the American public interest, the impacts of the legislation on the ongoing negotiations in Geneva for a multilateral agreement, what mechanisms are needed to ensure that promises for market access turn into reality by foreign nations—after the ink on an international agreement is dry—and several other matters.

In order to clarify and develop a fuller understanding of the ramifications of the provision of S. 652, I wrote Ambassador Kantor on April 3, 1995, soliciting his views in five areas: First, the impacts of the provision on the ongoing telecommunications negotiations in Geneva; second, the nature of foreign market behavior that would trigger action under the concept of reciprocity in the bill; third, the likely reactions of foreign governments to the provision; fourth, the most useful role that the United States Trade Representative can play in implementing the proposal in the bill; and, fifth, his suggestions for any changes which might strengthen the effectiveness of the provision. I received a very full reply from Ambassador Kantor on April 24, 1995, which I ask unanimous consent be printed in the RECORD at this point. I commend the Ambassador for his attention to this matter, and am sure that his reply will be useful to the Senate when the bill comes to the floor. I hope that the Senate will have a good debate on this particular provision, and hope that we will seize this historic opportunity to put into place effective reciprocity tools to truly open the world's economies to opportunities for American genius and labor.

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

APRIL 3, 1995.

Ambassador MICKEY KANTOR,
U.S. Trade Representative,
Washington, DC.

DEAR MR. AMBASSADOR: The Senate will soon take up S. 652, the Telecommunications Competition and Deregulation Act of 1995, to promote competition in the telecommunications industry. I am writing to solicit your views on the revision of foreign ownership provisions, specifically the revision to Section 310(b) of the 1934 Communications Act.

As you may know, the Commerce Committee's reported bill would allow the FCC to waive current statutory limits on foreign investment in U.S. telecommunications services if the FCC finds that there are "equivalent market opportunities" for U.S. companies and citizens in the foreign country where the investor or corporation is situated.

I would like to have your assessment of the impact of this provision for both enhancing the prospects of U.S. penetration of foreign markets, and for foreign investment in American telecommunications companies and systems.

Specifically, what impacts and advantages can we anticipate will result from enactment of this provision on the ongoing negotiations in Geneva on Telecommunications which has been established under the GATT, to be incorporated into the General Agreement on Trade in Services?

Second, which markets in Asia and Europe are now closed to U.S. telecommunications services in such a way that action on the basis of the concept of Reciprocity in the Senate bill is likely? What timeframes for such action, if any, would you contemplate?

Third, what has been the position of nations whose markets are closed to U.S. telecommunications services in the way of justifying their lack of access, and what likely reactions can we anticipate from those nations as a result of this legislative provision?

What role do you think can be most usefully played by your office in effectively implementing the provision that has been recommended?

Lastly, in analyzing the legislation reported from the Senate Commerce Committee, do you have any suggestions as to how the provision might be strengthened to better serve the goal of opening foreign markets to U.S. telecommunications services and products?

Thank you for your attention to this matter.

Sincerely,

ROBERT C. BYRD.

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THE U.S. TRADE REPRESENTATIVE,
Washington, DC, April 24, 1995.

Hon. ROBERT BYRD,
U.S. Senate,
Washington, DC.

DEAR SENATOR BYRD: This is to respond to your letter of April 3, 1995 regarding S. 652, the "Telecommunications Competition and Deregulation Act of 1995" and its proposed revision of Section 310(b) of the Communications Act of 1934. The Departments of Commerce, Justice, State and Treasury have concurred in this response to your letter.

The Administration and the U.S. telecommunications industry are united in their support for Congressional action to revise the foreign ownership rules under Section 310(b). As Vice President Gore indicated recently to our G-7 partners, the Administration seeks legislation to allow us to open further our common carrier telecommunications market to the firms of countries which open their markets to the American common carrier telecommunications industry. This would contribute greatly to the development of the Global Information Infrastructure (GII).

As you know, the U.S. leads efforts in the World Trade Organization (WTO) aimed at reaching a market-opening agreement on basic telecom services. The U.S. negotiating team—led by the USTR with representatives from the Departments of Commerce, Justice, State and the Federal Communications Commission—has successfully advanced U.S. objectives at the WTO talks.

I have attached detailed responses to each of your five questions. By amending the legislation as we suggest, the Congress would provide effective market-opening authority for both multilateral and bilateral negotiations on basic telecommuncations services.

We stand ready to work with you to develop legislation which can serve our shared interest in a stronger U.S. economy and the development of the Global Information Infrastructure. We would also be pleased to provide your staff with a briefing on the status of major telecom services markets in Asia, Europe and Latin America at their convenience.

Sincerely,

MICHAEL KANTOR.

Attachments.

1. Specifically, what impacts and advantages can we anticipate will result from enactment of this provision on the ongoing negotiations in Geneva on Telecommunications which have been established under the GATT, to be incorporated into the General Agreement on Trade in Services?

Answer: the U.S. maintains one of the world's most open and competitive markets. Our objective in this negotiation is to obtain firm commitments regarding similar levels of openness in the markets of other important trading partners.

Legislation providing the Government with effective market-opening authority with respect to Section 310(b) could have a powerful positive effect on these talks. Section 310(b) is regarded by foreign companies as a major barrier to market access in the United States. That perception is out of proportion to the actual effect of Section 310(b). Authority to remove this restraint through international negotiations or on the basis of similar levels of openness could lead in turn to the removal of ownership restrictions and monopoly barriers to U.S. companies in key markets abroad.

U.S. firms are successful global players in the common carrier telecommunications industry. Telecommunications companies in many major developed countries regard access to the U.S. market as a strategic imperative. Legislation providing the Government with effective market-opening authority is essential if we are to level the playing field for U.S. firms. This authority would greatly enhance the prospects for U.S. penetration of foreign markets—markets that now are sanctuaries for our companies' top competitors. At the same time, it would benefit the U.S. economy by greater openness to foreign investment in this growing sector.

2. Second, which markets in Asia and Europe are now closed to U.S. telecommunications services in such a way that action on the basis of the concept of reciprocity in the Senate bill is likely? What time frames for such action, if any, would you contemplate?

Answer: Most markets in Europe, Asia and elsewhere have monopoly arrangements which prohibit or restrict both foreign ownership of basic telecommunications infrastructure and provision of basic services. For example, most Member States of the European Union have voice telephone service monopolies, which they plan to maintain at least until 1998. The European Union and its Member States may introduce reciprocity provisions on foreign ownership in the absence of a successful conclusion to the WTO negotiations. In Japan and Canada, foreign ownership of firms that own telecommunications infrastructure is restricted to 33 percent.

Foreign governments remain cautious about allowing competition to firms which remain state-owned or controlled. In the past these companies have been regarded mainly as state-managed sources of employment and demand for domestic high tech goods.

Our key trading partners are much more likely to open their basic telecom services markets to U.S. companies in return for a balanced market-opening commitment by the U.S. which includes changes to the restrictions on common carrier radio licenses in Section 310(b). Unilateral action by the U.S. to eliminate these Section 310(b) provisions would forfeit leverage vis-a-vis these countries.

Effective market-opening legislation would reaffirm our commitment to the principles of private investment and competition and would allow us to challenge our key trade partners to embrace fully these principles.

The WTO negotiations have a deadline of April 30, 1996. We seek market-opening action within that time frame.

3. Third, what has been the position of nations whose markets are closed to U.S. telecommunications services in the way of justifying their lack of access, and what likely reactions can we anticipate from those nations as a result of their legislative provision?

Answer: Foreign markets are closed to U.S. firms, in varying degrees, mainly due to the worldwide heritage of natural monopoly in basic telecommunications services. The United States moved first to begin abandoning this approach over twenty years ago. The very successful American result in terms of increased information sector employment, fast-growing high-technology industries and better services to consumers and businesses has helped to motivate some key trading partners gradually to abandon monopoly as well. But progress has been incremental at best, with most markets only allowing competition in data and value-added services. Very few trading partners have taken steps to liberalize their basic infrastructure and voice telephone service markets. Even the United Kingdom, which now has one of the most liberal basic telecommunications services markets, still maintains a duopoly on facilities-based international services.

Some trade partners regard global market access as a strategic imperative for their companies. Since the United States represents about one-quarter of the world telcom services market, we can expect these nations will seek to obtain the benefit of any market-opening steps offered by the U.S. In this way, we hope to negotiate an exchange of market-opening commitments in the WTO productively with these trade partners.

Other significant trade partners which have inefficient telecommunications monopolies are faced with large unmet domestic demand for basic telecommunications services. Nonetheless, they remain cautious about allowing competition. The WOT negotiations offer an opportunity to harmonize and to expedite these parties' transition away from monopoly and towards reliance on private investment and competition.

4. Fourth, what role do you think can most usefully be played by your office in effectively implementing the proposal that has been recommended?

Answer: The Federal Communications Commission recently proposed to consider foreign market access in certain decisions affecting foreign-affiliated firms. The role of the Executive Branch as defined by statutory reform of Section 310(b) should conform with the view expressed below by the Executive Branch in its recent comments on the FCC's proposed rulemaking. In comments filed on April 11, 1995 by the Commerce Department's National Telecommunications and Information Administration on behalf of the Executive Branch, we stated,

"The Commission . . . has authority over the regulation of U.S.-based telecommunications carriers in interstate and foreign commerce, as well as concurrent authority with the Executive Branch to protect competition involving telecommunications carriers by enforcing certain provisions of the antitrust laws. In carrying out its regulatory responsibilities, the Commission may help effectuate the policy goals and initiatives of the Executive Branch and promote U.S. interests in dealing with foreign countries. Accordingly the Commission must accord great deference to the Executive Branch with respect to U.S. national security, foreign relations, the interpretation of international agreements, and trade (as well as direct investment as it relates to international trade policy). The Commission must also continue to take into account the Executive Branch's views and decisions with respect to antitrust and telecommunications and information policies."

The Administration plans to work with the Commission to establish a process to take the respective authorities of the Commission and Executive Branch agencies into account in making such determinations.

5. Lastly, in analyzing the legislation reported from the Senate Commerce Committee, do you have any suggestions as to how the provision might be strengthened to better serve the goal of opening foreign markets to U.S. telecommunications services and products?

Answer: First, the legislation should provide the Executive Branch with leverage to negotiate greater openness, in conformance with the view expressed by the Executive Branch in its recent comments on the FCC's proposed rulemaking. Otherwise, the legislation reported from the Senate Commerce Committee would make market access factors determinative, in a departure from the FCC's existing public interest standard. Under the existing public interest standard, the government can exercise discretion with respect to foreign investors from otherwise unfriendly nations.

Second, the bill should provide authority to conform with the obligations of a successful outcome in the WTO negotiations. This would require the U.S. to make any new market-opening commitments on a most-favored-nation (MFN) basis within the framework of the General Agreement on Trade in

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Services (GATS). In order to provide effective leverage in these talks, legislation to reform Section 310(b) should explicitly provide for the Government to take on such an obligation. If the WTO basic telecommunications services negotiations are not successful, the U.S. will take a most-favored-nation exception for basic telecommunications services under the GATS.

Third, the bill's market-segment-for-market-segment approach should be dropped to allow market opening generally balanced among telecommunications services markets.

Fourth and finally, the bill's "snapback" provision is a unilateral provision to remove negotiated benefits which would be unacceptable to us if proposed by other nations for themselves. It is unnecessary insofar as the FCC can already condition authorizations and reopen them if the conditions later are not met, consistent with U.S. international obligations.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE STATE OF SMALL BUSINESS—MESSAGE FROM THE PRESIDENT—PM 53

The PRESIDING OFFICER laid before the Senate the following messages from the President of the United States, together with an accompanying report; which was referred to the Committee on Small Business.

To the Congress of the United States:

I am pleased to forward my second annual report on the state of small business, and to report that small businesses are doing exceptionally well. Business starts and incorporations were up in 1993, the year covered in this report. Failures and bankruptcies were down. Six times as many jobs were created as in the previous year, primarily in industries historically dominated by small businesses.

Small businesses are a critical part of our economy. They employ almost 60 percent of the work force, contribute 54 percent of sales, account for roughly 40 percent of gross domestic product, and are responsible for 50 percent of private sector output. More than 600,000 new firms have been created annually over the past decade, and over much of this period, small firms generated many of the Nation's new jobs. As this report documents, entrepreneurial small businesses are also strong innovators, producing twice as many significant innovations as their larger counterparts.

In short, a great deal of our Nation's economic activity comes from the record number of entrepreneurs living the American Dream. Our job in Government is to make sure that conditions are right for that dynamic activity to continue and to grow.

And we are taking important steps. Maintaining a strong economy while continuing to lower the Federal budget deficit may be the most important step we in Government can take. A lower deficit means that more savings can go into new plant and equipment and that interest rates will be lower. It means that more small businesses can get the financing they need to get started.

We are finally bringing the Federal deficit under control. In 1992 the deficit was $290 billion. By 1994, the deficit was $203 billion; we project that it will fall to $193 billion in 1995.

Deficit reduction matters. We have been enjoying the lowest combined rate of unemployment and inflation in 25 years. Gross domestic product has increased, as have housing starts. New business incorporations continue to climb. We want to continue bringing the deficit down in a way that protects our economic recovery, pays attention to the needs of people, and empowers small business men and women.

CAPITAL FORMATION

One area on which we have focused attention is increasing the availability of capital to new and small enterprises, especially the dynamic firms that keep us competitive and contribute so much to economic growth.

Bank regulatory policies are being revised to encourage lending to small firms. Included in the Credit Availability Program that we introduced in 1993 are revised banking regulatory policies concerning some small business loans and permission for financial institutions to create "character loans."

New legislation supported by my Administration and enacted in September 1994, the Reigle Community Development and Regulatory Improvement Act of 1994, establishes a Community Development Financial Institutions Fund for community development banks, amends banking and securities laws to encourage the creation of a secondary market for small business loans, and reduces the regulatory burden for financial institutions by changing or eliminating 50 banking regulations.

Under the Small Business Administration Reauthorization and Amendments Act of 1994, the Small Business Administration (SBA) is authorized to increase the number of guaranteed small business loans for the next 3 years. The budget proposed for the SBA will encourage private funds to be directed to the small businesses that most need access to capital. While continuing cost-cutting efforts, the plan proposes to fund new loan and venture capital authority for SBA's credit and investment programs. Changes in the SBA's 7(a) guaranteed loan program will increase the amount of private sector lending leveraged for every dollar of taxpayer funds invested in the program.

Through the Small Business Investment Company (SBIC) program, a group of new venture capital firms are expected to make available several billion dollars in equity financing for startups and growing firms. The SBIC program will continue to grow as regulations promulgated in the past year facilitate financing with a newly created participating equity security instrument.

And the Securities and Exchange Commission's simplified filing and registration requirements for small firm securities have helped encourage new entries by small firms into capital markets.

We are recommending other changes that will help make more capital available to small firms. In reauthorizing Superfund, my Administration seeks to limit lender liability for Superfund remediation costs, which have had an adverse effect on lending to small businesses. Interagency teams have been examining additional cost-effective ways to expand the availability of small business financing, such as new options for expanding equity investments in small firms and improvements to existing microlending efforts.

We've also recognized that we can help small business people increase their available capital through tax reductions and incentives. We increased by 75 percent, from $10,000 to $17,500, the amount a small business can deduct as expenses for equipment purchases. Tax incentives in the 1993 Budget Reconciliation Act are having their effect, encouraging long-term investment in small firms. And the empowerment zone program offers significant tax incentives—a 20 percent wage credit, $20,000 in expensing, and tax-exempt facility bonds—for firms within the zones.

REGULATION AND PAPERWORK

But increasing the availability of capital to small firms is only part of the battle. We also have to make sure that Government doesn't get in the way. And we're making progress in our efforts to create a smaller, smarter, less costly and more effective Government that is closer to home—closer to the small businesses and citizens it serves.

In the first round of our reinventing Government initiative—the National Performance Review—we asked Government professionals for their best ideas on how to create a better Government with less red tape. One recommendation was that Federal agency compliance with the Regulatory Flexibility Act—that requires agencies to examine proposed and existing regulations for their effects on small entities—be subject to judicial review. In other words, they said we need to put teeth in the legislation requiring Federal agencies to pay attention to small business concerns when they write regulations. That proposal has been under debate in the Congress.

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Document No. 15

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be conducted outside of Bosnia—in Croatia or Slovenia, for example.

Madam President, administration officials should quit fighting amongst themselves and begin real consultations with the Congress, consultations based on the facts and not on wild accusations or unrealistic scenarios. It is time to take sides—with the victims of this aggression. It is also high time for America to exercise leadership and end its participation in this international failure.

VETO OF RESCISSIONS BILL

Mr. DOLE. Madam President, I will just say that on the rescissions veto by the President today, it is highly regrettable President Clinton chose a bill cutting spending for the first veto. The $16.4 billion rescissions bill would have provided for $9 billion—$9 billion, a lot of money in real savings—an important downpayment in getting our country's financial house in order.

The President made a serious mistake in judgment in vetoing this measure. It would have provided funding to the Federal Emergency Management Agency for disaster relief, to Oklahoma for reconstruction, and debt relief for Jordan to support the peace process, money for California.

Speaker GINGRICH and I have previously said we met the administration more than halfway. The President asked for Jordan debt relief, we met his request. The President asked for FEMA funds for disaster relief in 40 States, and we met his request. The President threatened to veto if striker replacement language was included in the bill, we took it out. We left AIDS funding, breast cancer screening, childhood immunization, Head Start, and other programs untouched, and still we came up with $9 billion in net real savings.

We, in the Congress, held up our end of the bargain, but President Clinton missed a valuable opportunity—a golden opportunity—to join us cutting spending.

Now, with three-quarters of the fiscal year almost gone, we are losing the opportunity to enact real savings this year. In the face of the budget deficit that mortgages our children's future, we in the Congress will proceed to pass a budget that puts us on the path to balance by the year 2002. We owe it to our children, and we owe it to our grandchildren.

For the sake of generations to come, it is time for the President to stop being an obstacle in the road and join us in our responsibility to secure our Nation's economic future.

THE TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 45, S. 652, the telecommunications bill.

The PRESIDING OFFICER (Mr. BENNETT). The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 652) to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. PRESSLER. Mr. President, I rise to begin Senate floor consideration of S. 652—the comprehensive communications bill which the Committee on Commerce, Science, and Transportation overwhelmingly approved late last month on a vote of 17 to 2—The Telecommunications Competition and Deregulation Act of 1995.

The future of America's economy and society is inextricably linked to the universe of telecomunications and computer technology. Telecommunications and computer technology is a potent force for progress and freedom, more powerful than Gutenberg's invention of the printing press five centuries ago, or Bell's telephone and Marconi's radio in the last century.

This force has helped us reach today's historic turning point in America.

The telecommunications and computer technology of 21st-Century America will be hair-thin strands of glass and fiber below; the magical crackling of stratospheric spectrum above; and the orbit of satellites 23,000 miles beyond. With personal computers interconnected, telephones untethered, televisions and radios reinvented, and other devices yet to be invented bringing digitized information to life, the telecommunications and computer technology unleashed by S. 652 will forever change our economy and society.

At stake is our ability to compete and win in an international information marketplace estimated to be over $3 trillion by the close of the decade. The information industry already constitutes one-seventh of our economy, and is growing.

As chairman of the Committee on Commerce, Science and Transportation, the core of my agenda is to promote creativity in telecommunications and computer technology by rolling back the cost and reach of government. Costly big-government laws designed for another era restrain telecommunications and computer technology from realizing its full potential. My top priority this year is to modernize and liberalize communications law through passage of the bill before us today, S. 652: Telecommunications Competition and Deregulation Act of 1995.

A. THE ADVENT OF TELECOMMUNICATONS REGULATIONS

Most telecommunications policy and regulation in America is based upon the New Deal era Communications Act of 1934. The 1934 Act incorporated the premise that telephone services were a natural monopoly, whereby only a single firm could provide better services at a lower cost than a number of competing suppliers. Tight government control over spectrum based services was justified on a scarcity theory. Neither theory for big government regulation holds true today, if it ever did.

The 1934 Act was intended to ensure that AT&T and other monopoly telephone companies did not abuse their monopoly power. However, regulatory protection from competition also ensured that AT&T would remain a government-sanctioned monopoly. In exchange for this government-sanctioned monopoly, AT&T was to provide universal service. AT&T retained its government-sanctioned monopoly until antitrust enforcement broke up the Bell System and transferred the monopoly over local services to the Bell Operating Companies.

The Communications Act has become the cornerstone of communications law in the United States. The 1934 Act established the Federal Communications Commission, and granted it regulatory power over communications by wire, radio, telephone, and cable within the United States. The Act also charged the Federal Communications Commission with the responsibility of maintaining, for all the people of the United States, a rapid, efficient, Nationwide and worldwide wire and radio communications service with adequate facilities and reasonable charges.

Prior to 1934, communications regulation had come under the jurisdiction of three separate Federal agencies. Radio stations were licensed and regulated by the Federal Radio Commission; the Interstate Commerce Commission had jurisdiction over telephone, telegraph, and wireless common carriers; and the Postmaster General had certain jurisdiction over the companies that provided these services. As the number of communications providers in the United States grew, Congress determined that a commission with unified jurisdiction would serve the American people more effectively.

The 1934 Communications Act combined the powers that the Interstate Commerce Commission and the Federal Radio Commission then exercised over communications under a single, independent Federal agency.

The Communications Act of 1934 was based, in part, on the Interstate Commerce Act of 1888. For example, the requirement for approval of construction or extension of lines for railroads was taken directly from the ICC Act. Prior to 1934, wire communications were regulated by the same set of laws that regulated the railroads. Radio communications were regulated under the 1927 Federal Radio Act. In 1934, the Federal Communications Commission was created to oversee both the wireline communications and radio communications.

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The telecommunications industry today is a dynamic and innovative industry, with new technology being introduced on daily basis. The telecommunications industry, however, is regulated under a set of laws that are antiquated and never designed to handle the challenges of today's industry.

Telecommunications laws and regulations are not able to adequately take into account the advent of telecommunications competition, and, indeed, have slowed the introduction of competition into many segments of the industry. These laws did not contemplate the development of fiber optics, the microchip, digital compression, and the explosion of wireless services. It is time to revise and amend the 1934 act to fit the new and future competitive telecommunications industry.

B. THE MODIFICATION OF FINAL JUDGMENT

Since 1984, the Bell operating companies have been restricted from entering various lines of businesses as a result of the consent decree entered in the antitrust case, United States versus Western Electric.

The consent decree, commonly referred to as the modification of final judgment, or the MFJ, places the U.S. District Court for the District of Columbia and Judge Harold Greene as the administrator of the decree, and establishes a procedure by which the Bell operating companies can obtain waivers from the decree's restrictions.

Recent years have seen a proliferation of legislative and judicial action to change the provisions of the original consent decree that divested American Telephone and Telegraph of its local exchange service and created the regional Bell operating companies. Currently prohibited from providing long distance service, manufacturing telecommunications equipment, and, up until July 1991, providing information services, the Bell operating companies and others have long advocated open entry into these new lines of business, contending that such action would invigorate the telecommunications marketplace.

In opposition, certain consumer organizations, electronic publishers, long distance carriers, the Justice Department, and other industry groups over the past few years have opposed entry on the grounds that the courts should administer an antitrust consent decree and that so long as the Bell operating companies face little or no competition in their core business of providing local telephone service, they should not be permitted to enter competitive lines of business.

During the past 10 years a number of waivers have been granted, but the process has slowed in recent years. More fundamentally, the judicial process is necessarily limited; the district courts constitutional role is simply to apply the law and administer the decree, and not make informed policy decisions about how communications law and the communications and computer industry should develop.

Moreover, given the vulnerability of the telephone industry to selective, cherry-picking competition, it is likely that the limited nature of today's competition will have a significant effect on the industry's revenues in general, and on local telephone rates in particular.

Consequently, although the consent decree served a useful purpose initially, it no longer serves the public interest at this dynamic time in the evaluation of the communications and information industry. In place of a process that subjects the communications industry to the terms of a consent decree entered 12 years ago and administered by a single district court, the Congress will reassert its proper policy role and administer a new Federal policy designed to promote competition, innovation, and protect consumers.

Prior to the implementation of the MFJ in 1984, as noted previously, AT&T was the monopoly telecommunications provider in the United States. AT&T's Long Lines Department provided long distance telephone service to virtually everyone in the country. AT&T maintained owership of the 22 Bell operating companies, which provided local telephone service on a monopoly basis to approximately 85 percent of the population.

In addition, AT&T owned Western Electric, which manufactured almost all the equipment needed for the operation of the telephone network. AT&T also owned Bell Telephone Laboratories, Bell Labs, which conducted the most extensive research involving high technologies and telecommunications of any industrial research center in the world.

The roots of the MFJ go back over 100 years. In 1882, Bell Telephone, the predecessor of AT&T, designated Western Electric Co. as the exclusive manufacturer of its patented telecommunications equipment. During the early 1900's Bell Telephone maintained a majority interest in Western Electric; by 1925 it had 100 percent owership of the company.

By that same year, Bell Telephone established Bell Telephone Laboratories to conduct its research and development. The Bell system's rapid expansion triggered interest from the Department of Justice and the Interstate Commerce Commission—which then had jurisdiction over interstate telephone service—for possible antitrust violations.

Following other antitrust action, in 1974, the Department of Justice filed an antitrust suit against AT&T. The suit claimed that AT&T misused its Bell system monopoly of the local exchange network to restrict competition in the manufacturing of telecommunications equipment, and in the market for interchange service through refusal to provide competitors with interconnection to the local networks and, therefore, access to end customers. After years of litigation, the case was settled in 1982 with entry of a modification of final judgment by Judge Harold Greene, which was negotiated by AT&T and the Justice Department.

The debate about the proper role of the Bell operating companies in the communications industry has often overshadowed the larger question of which government bodies should be establishing national telecommunications policy. Courts make rulings, as they should, solely on the narrow questions confronting them. Consequently, courts do not and cannot ensure that broader concerns about sound economic goals are fully considered.

As a result of these concerns, which have been fueled by a period of globalization and intense international competition in the telecommunications industry, I believe, and the committee believes that we in Congress as the expert in the oversight of the telecommunications industry, should have authority to manage these issues in order to develop telecommunications and information policy in a coordinated manner.

At this juncture in the evolution of the communications industry the Congress should be the locus of authority on questions involving telecommunications competition, deregulation and consumer protection. We have the ability to see a more complete spectrum of issues, as compared to the narrow view of discrete issues which a court and the Department to Justice necessarily takes in the context of litigation. Moreover, we can consider broad policy goals in establishing and administering telecommunications policy.

C. REGULATORY LAG

While America is still the world's leader in information technology, we are no longer in the position of being unchallenged. Historically we were an economic and technological Gulliver standing astride a world of competitive Lilliputians. But that's just not true any longer. America—especially we in the American legislative and regulatory system—must respond and respond now.

At a minimum, government should try to avoid doing harm. Unfortunately, government and regulators have a rather sorry history of slowing the introduction of new technologies and competition. The examples of this regulatory lag are numerous and all too common. Regulatory lag means we don't get investment stimulus that competition and new entry spur and, more importantly, the public is denied new service and product options.

1. Competition in customer premises equipment:

Competition and open entry first came to telecommunications with respect to customer premises equipment (CPE). This competition, however, was initially resisted by the FCC. For many years, AT&T prohibited customers or anyone else from connecting any equipment to its telephone network or to telephones themselves that AT&T did not supply. Bell tariffs forbade all foreign attachments—meaning equipment

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not provided by Bell itself. Unfortunately, regulators endorsed this anticompetitive practice for almost 70 years.

Through prodding from the Federal courts, the commission eventually allowed devices deemed not injurious to the telephone network to be connected to the network. This was only after the courts conferred on subscribers the right to use their telephones in a way that had private benefits without being publicly detrimental

It took the Commission more than a decade to extend the new law to include equipment that was connected electronically, not just physically, to the network. The Commission limited restrictions on interconnection to protecting the network from harm. The details of equipment interconnection were not fully implemented until the commission adopted part 68 of its rules in 1975, nearly 20 years after the original court determination so that carriers themselves would be free to compete on equal terms in the open market.

2. Competition in long distance services:

The commission was equally slow in authorizing interexchange—or long distance—competition. In the 1940s, long distance service was provided exclusively over wires, and the same basic economics that seemed to preclude competition in local service applied equally to long distance service. The development of microwave and satellite technologies radically changed that picture, making competition both practical and inevitable. The first few, faltering steps in the direction of a competitive marketplace, were taken by the commission in 1959 but it wasn't until 1980 that the commission formally adopted an open entry policy for all interstate services.

Competition in the interexchange market developed slowly as the commission gradually and incrementally responded to changes in market pressures, technology, and consumer demand for new and varied long distance services. Microwave relay technology, developed by Bell Laboratories during World War II, prompted the beginning of IXC competition by offering a viable, less expensive alternative to AT&Ts existing wireline facilities for transmitting long distance communications.

The commission first permitted entry of non-AT&T services for provision of private services. In 1959, the FCC, finding a need for private services and foreseeing no risk of harm to established services, authorized certain private companies to provide microwave services and to establish private microwave networks for their own internal use. Although described as a narrow, limited decision, the Above 890 decision prompted a flood of applications from private organizations seeking authorization to establish private microwave long-distance networks. It also brought pressure for entry into other fields.

MCI applied to the FCC for authority to provide private, non-switched communications service between St. Louis and Chicago. This service still did not involve interconnection with AT&T's public network. In 1969, the commission approved MCI's limited point-to-point system, saying it was designed to meet the interoffice and interplant communications needs of small businesses. Again, however, the decision was narrow.

The commission was concerned about permitting unregulated carriers to engage in creamskimming, and it generally still adhered strongly to the philosophy that the public network should remain a regulated monopoly. Nonetheless, it prompted a deluge of applications seeking authorization of similar microwave facilities, reflecting a public demand for competitive alternatives.

A few years later, the commission formalized a policy of allowing entry of new carriers into the private line, or Specialized Common Carrier (SCC), field to provide alternatives to certain interstate transmission services traditionally offered only by the telephone company. The commission did not, however, define the scope of services it was opening up to competition, a matter that would prove troublesome as pressures for increased competition rose.

Although each time emphasizing the limited nature of its decision, the commission had, over the course of 2 decades, continued to approve the entry of new providers of telephone services, albiet at times reluctantly and with prodding by the courts, and only in provision of private line services.

When it came to permitting direct competition with AT&Ts public switched long distance service, the Commission's reluctance hardened. MCI had eventually obtained approval for its private line offerings, but when it later proposed new switched service in direct competition with AT&T's MTS services, the FCC refused approval.

In doing so, the Commission reiterated that its Specialized Common Carrier decision was meant to allow entry only into private line service and not into direct competition with the public network. The Court of Appeals, however, reversed the commission's failure to approve MCI's proposed offering, rejecting the commission's argument that its Specialized Common Carrier decision authorized only private line services.

After Execunet I, the commission still refused to order AT&T to interconnect with MCI. The Court of Appeals, in Execunet II, then explicitly mandated interconnect, emphasizing that Specialized Common Carrier was a broad decision to permit competition in the long distance market and that such competition necessarily required AT&T to provide physical interconnection to the public network.

The Execunet decisions opened virtually all interstate IXC markets to competition. In response to this new judicially imposed reality, the FCC lowered entry barriers, eliminated rules prohibiting sharing of heavy use, bulk rate circuits, and directed AT&T to permit the resale and sharing of these circuits by competitors.

During this same era, the commission approved interstate packet-switched communications network offerings that introduced value-added networks which resold data processing functions through basic private line circuits, and unlimited resale and shared use of private line services and facilities. Tariff restrictions against the resale and shared use of public switched long distance services were removed in 1980. Since this time, the FCC has strongly supported the growth of competition.

The resulting competition has had well documented public benefits of great scale and scope.

3. Enhanced Services:

The MFJ Consent Decree's information services restriction required the Bell Companies to seek waivers for the provision of voice answering services, electronic mail, videotext, electronic versions of Yellow Pages directories, E911 emergency service, and directory assistance services provided to customers of nonassociated independent telephone companies.

The restriction on the provision of voice mail services was lifted in the late 1980's. In the first 2 years of RBOC participation, the voice mail equipment market grew threefold and prices declined dramatically. Between 1988 (when the RBOCs were permitted entry) and 1989, the market for voice mail services grew by 40 percent, with total revenues rising from $452 million to $635 million.

Prices have also fallen. For example, telephone companies today charges as little as $5 per month for its residential voice messaging service. Similar services in 1987 cost 2 to 10 times more. Output has risen. The U.S. market for voice mail and voice response equipment increased from $300 million in 1988 to over $900 million in 1989. The number of voice message mailboxes increased from 5.3 million in 1987 to 7.7 million in 1988 to 11.6 million in 1989.

4. Spectrum Allocation:

The introduction of both FM radio and television was sigrificantly delayed by years of FCC equivocation over which bands would be assigned to which uses. Equally egregious delays preceded the introduction of cellular telephone service.

FM Radio. FM radio technology was invented in 1933, but did not receive widespread use until the 1960s. Lack of FCC support contributed to FM's lack of popularity. One glaring example occurred in 1945. By 1945, 500,000 FM receivers had been built, but were all rendered useless when the FCC decided to

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move FM channels to a different spectrum band. FM languished for so long that the inventor of FM eventually committed suicide in despair.

TV. The modern television was developed in the 1930s and exhibited by RCA in 1939, but the FCC took 2 more years to adopt initial standards. It was then discovered that channel allocation was inadequate, and the FCC froze all applications for TV licenses for 4 years, until 1952. In the year after the freeze alone, the number of stations tripled. It took another 10 years before regulations for UHF/VHF frequencies were finalized.

Cellular. In 1947 Bell Labs developed the concept of cellular communications and by 1962, AT&T had developed an experimental cellular system. It took another 15 years for regulation to catch up with the new technology; in 1977 the FCC finally granted Illinois Bell's application to construct a developmental celluar system in Chicago. The FCC took 8 years to finalize the boundaries of cellular service areas. The delay cost the cellular industry an estimated $86 billion.

5. Out of Region Competition by Bell Companies:

The Department of Justice, with the concurrence of Judge Greene, originally held that the MFJ consent decree forbade the RBOCs from providing services outside their own regions. The D.C. Circuit however overruled them both and found that the BOCs are not restricted to providing service only within their home territories; they are free to offer intraLATA services anywhere in the country. The RBOCs now compete heavily against one another in cellular service. The provision of other local services, however, is impeded by the interexchange restriction, which the Department and the decree court have so far refused to lift even outside the service areas of the individual RBOCs.

6. Bell Company Manufacturing:

In June 1991, outages in 5 states and the District of Columbia forced Bell Atlantic and other Bell companies to work closely with a switch manufacturer to determine the cause of the outages and prevent their recurrence. The Department of Justice told Bell Atlantic that, notwithstanding the emergency, Bell Atlantic could not work with the manufacturer without a waiver of the decree's manufacturing restriction. On July 9, 1991, Judge Greene ordered a hearing with Bell Atlantic, the Department of Justice, AT&T, and MCI and granted the waiver on July 10, 1991.

7. Cable Networks:

The FCC—at the behest of broadcasters—crippled and almost killed cable television, by means of a number of regulatory restrictions such anti-siphoning rules. The commission's stated justification for restricting cable was that it did not want to jeopardize the basic structure of over-the-air television.

8. Video Dialtone:

By defining video dialtone service as common carriage, not broadcast, the FCC has successfully preempted a raft of State cable regulation and franchise fees. It has also subjected these services to a raft of regulations. Telephone companies have been invited to provide a basic platform that delivers video programming and basic adjunct services to end users, under Federal, common-carrier tariff.

Video dialtone providers must offer sufficient capacity to serve multiple video programmers; they must make provision for increased programmer demand for transmission services over time; and they must offer their basic platform services on a nondiscriminatory basis. The dial tone moniker is misleading; the video connections are strictly between the telco central office and customers. But the number of programs offered from a video dialtone server can be expanded indefinitely. The commission has attempted to maintain strict separation between the provision of video dialtone conduit, and provision of the programming itself. Video dialtone as defined by the commission is plainly more like telephone carriage than like cable or broadcasting.

9. Direct Broadcast Satellite:

When the FCC first considered licensing Direct Broadcast Satellite service (DBS) in the early 1980s, the National Associate of Broadcasters raised the specter of siphoning. DBS would result in the loss of service to minorities, rural areas, and special audiences by siphoning programming, fragmenting audiences, and reducing advertising support. It would rob free local television service of advertising revenues. UHF stations would be especially threatened. The cable television industry joined in the assault on DBS by denying access to programming. The service has only recently become available.

10. Computer and Software:

AT&T—which invented the transistor and in the 1960s and 1970s developed some of the most powerful computers—was barred for years (by the 1956 antitrust consent decree) from competing in the computer market against IBM. The upshot was that IBM completely dominated computing for many years. AT&T had also developed the Unix operating system around which the Internet was built—it couldn't commercialize that aggressively either. Now Microsoft is being accused of monopolizing the industry with the MS-DOS and Windows alternatives.

11. Delay in RBOCC Information and Inter-LATA Services Relief:

In 1987, the Justice Department recommended the removal of the information services restriction on the RBOCs. This was not opposed by AT&T. In September of 1987, Judge Greene permitted the RBOCs to enter non-telecommunications businesses without obtaining a waiver, but did not lift the information services ban.

On April 3, 1990, the U.S. Court of Appeals for the District of Columbia remanded Judge Greene's decision to continue the ban on RBOC information services. Eventually, on July 25, 1991, Judge Greene relented and permitted RBOCs to provide information services. RBOCs were finally granted the right to provide information services more than 4 years after the Justice Department recommended that the restriction be removed.

There have been numerous examples of egregious delays in granting even non-controversial decree waivers. For example, Bell Atlantic sought a waiver in 1985 to allow it to serve Cecil County, Maryland as part of its Philadelphia cellular system. Bell Atlantic submitted another waiver to provide cellular service to 3 New Jersey counties through its Philadelphia-Wilmington system on October 24, 1986.

These waivers were necessary to the provision of uninterrupted cellular service between Washington and New York. Judge Greene finally granted the second waiver on February 2, 1989, almost two-and-a-half years after it was filed and the Cecil County waiver was not approved until 1991, nearly 5 years after it was first sought.

RBOCs have filed more than 200 MFJ waivers that Judge Greene has ruled on. These waiver requests first go to the Department of Justice, and then move to Judge Greene. Unfortunately, the waiver process is also very time consuming. The average age of an RBOC waiver request pending before the Department of Justice is about 2½ years old.

Once the Justice Department passes the waiver on to Judge Greene, it takes approximately 2 years before Judge Greene rules on it. This has made the average waiver process more than 4½ years to work its way through the system.

D. THE NEW COMPETITIVE LANDSCAPE

The competitive landscape is changing, and, if Congress does not act to overhaul the telecommunications legal landscape, consumers will once again be denied benefits of competition and new technology. Wireless services have exploded since the Bell System breakup. Wireless counted less than 100,000 customers at that time.

Today, there are more than 25 million cellular subscribers. Additionally, companies just spent more than $7.7 billion for the major trading area PCS licenses. There is obviously a market for more wireless communications. Cable has more than doubled its subscriber base since the MFJ.

For local telephone services, States such as New York, Illinois, and California, have been leading the way in opening the local market to competition. Competitive access providers did not even exist at the time of the MFJ. Today, CAP's are in 72 cities, and have built 133 competing networks. Rapid changes in technology have broken down the natural monopoly Congress based the 1934 act on. Competition is still slow to fully develop in some areas, and in some markets.

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History teaches us that, under existing law, the FCC and the courts have not been able to respond to market and technology changes in an expeditious manner. This delay prevents the consumer from gaining the benefits of competition, such as lower rates, better services, and deployment of new and better technologies.

The courts, FCC and Justice Department have been micro-managing the growth of competition in the telecommunications industry. That is why the committee believes it is incumbent upon Congress to exercise its rightful authority in this area, and pass legislation that will open the entire telecommunications industry to full competition. Without legislation, it may be years, or decades, before America sees the benefits of a truly open and competitive telecommunications industry.

Meanwhile our foreign competitors are moving ahead aggressively. In Great Britain, cable-telco competition is growing rapidly. The major cable players in the UK are, in fact, American telco and cable companies. Prices for telephony provided over cable lines are 10 to 15 percent lower than that provided over British Telecoms network. Here in the United States by contrast, the combination of the 1984 cable-telco prohibition and entry barriers into the local telephone market prevent such competition from developing.

In Japan the government is providing interest free loans to cover 30 percent of the investment for Japan's broadband optical fiber network. Also planned are favorable tax measures for optical fiber and related investments. Meanwhile in the United States when American companies say they'll invest their own money in new networks, the government at both the Federal and State level visits endless regulatory hassle on the proponents.

E. IMPORTANCE OF TELECOMMUNICATIONS TO ECONOMIC GROWTH

At the heart our actions in the 104th Congress is private sector economic growth and private sector jobs through less Government regulation. To achieve our goal, we need increased capital investment.

Telecommunications is an especially important sector to spur investment because it provides a big multiplier effect. The Japanese Government has estimated that for each dollar—or yen—invested in telecommunications, you get 3 dollars' worth of economic growth—a real telecom kicker.

America's edge has always been our grasp of technology. Today, telecommunications and computers are at the cutting edge. Americans today have the broadest choice and best prices for these information economy products and services in the world.

For instance, 98 percent of American homes have television and radio, 94 percent a telephone. Close to 80 percent have a VCR, while 65 percent subscribe to cable TV—98 percent have the option. We are rapidly approaching 40 percent of homes with PC's and 36 percent with video games. Multimedia and CD-ROM sales are flourishing.

The Internet and computer on-line services are reaching millions of Americans. DBS has been successfully launched with 150 channels of digital video and audio programming services. A vibrant new wireless communications industry is growing with cellular—25 million subscribers—and paging—20 million users—soon to be joined by Enhanced Specialized Mobile Radio, Global Satellite Systems, and Personal Communications Services.

First, Digitization and industry convergence meet—Regulatory apartheid:

Telecommunications policy in America, under the 1934 Communications Act, has long been based on the now faulty premise that information transmitted over wires could be easily distinguished from information transmitted over the air. Different regulatory regimes were erected around these different information media.

This scheme might best be described as "regulatory apartheid"—each technology had its own native homeland. These once neat separations and distinctions between the media no longer make sense.

The explanation for the rapid convergence of previously distinct media lies with digitization. Digitization allows all media to become tanslatable into each other. As Congress' Office of Technology Assessment stated in a recent study: "A movie, phone call, letter, or magazine article may be sent digitally via phone line, coaxial cable, fiber-optic cable, microwave, satellite, the broadcast air, or a physical storage medium such as tape or disk."

The same technological phenomenon to sweep the computer industry during the 1980's is now sweeping the telecommunications industry—we can learn valuable lessons from the experience in the computer industry.

Second, Computers and phones:

By the early 1980's, AT&T and IBM were two of the largest and more powerful companies in the world. On January 8, 1982, the Federal Government chose two different destinies for the mammoth companies. The Government agreed to dismiss its case against IBM; by contrast, AT&T would be divested, freed from all antitrust quarantines and so permitted to enter the computer business.

At the time, Intel was already over a decade old. Apple was growing fast. And IBM had just introduced a brand-new machine, based on an Intel microprocessor. Big Blue's new machine—its personal computer—was small and beige. Three weeks after the break-up of AT&T was complete, in January 1984, Steve Jobs stepped out on the podium at the annual stockholders' meeting of Apple Computer and unveiled the new Macintosh.

The impact of unfettered competition has devastated IBM. The only thriving parts of its hardware business today are at the bottom end, where Big Blue's small beige machines have been open, standardized, and widely copied from the day they were introduced. Between 1985 and 1992, IBM shed 100,000 employees. IBM's stock, worth $176 a share in 1987, collapsed to $52 by year's end 1992. In 1992, the New York Times would announce "The End of I.B.M.'s Overshadowing Role." "IBM's problems," the Times noted, "are due to its failure to realize that its core business, mainframe computers, had been supplanted by cheap, networked PC's and faster networked workstations." In a desperate scramble for survival, IBM is breaking itself into autonomous units and spinning off some of its more successful divisions. IBM itself is only one of many first-tier vendors of PC's today, with a market share of 8 percent.

The impact on the computer industry, however, has been intense competition spawning rapid technological advancement. A $5,000 PC in 1990—featuring Intel's 80486 running at 25 MHz—had the processing power of a $250,000 minicomputer in the mid-1980's, and a million-dollar mainframe of the 1970's. Five years later, that same $5,000 PC is two generations out of date—with a third new generation on the horizon. Systems with nearly twice the processing power of that 1990 system—using Intel's 486DX2-66 chip—are available for under $1,500, and Intel runs advertisements encouraging owners of these chips to upgrade to newer ones. Systems with more than twice the processing power of that system—featuring Intel's 120 MHz Pentium chip—are now available, most for under $5,000. Intel is currently promising faster and faster iterations of its Pentium chips—running at 133 and 150 MHz—before it releases commercial versions of its next-generation P6, which promises to move the price-performance curve astonishingly farther out than today. The computer industry is still firmly in the grip of Moore's Law, which holds that the number of transistors that can be placed on a microchip—a rough estimator of the power of the chip—doubles every 18 months.

The upshot is that consumers can purchase systems with four times the power of the 1980's mainframes at one-fiftieth of the price. Put another way, systems today have over 200 times the value of systems in 1984. By contrast, long-distance calls today represent only twice the value of long-distance calls in 1984. Had price-performance gains of the same magnitude occurred in the long-distance market since 1984, the results would have been equally stunning. For example, in 1984, a 10 minute call at day rates between New York and Los Angeles cost a little less than $5, today it costs $2.50. Had competition and technological advances developed in the long distance market as it did in the computer market, that same call would cost less than 3 cents. Alternatively, a 10 minute call from New York to Japan—cost roughly $17 in 1984 and $14 today. Had long-distance

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service advanced as rapidly as the personal computer industry, that call would cost less than 9 cents.

Third. Lessons learned:

Yet as the United States stands at this critical crossroads—the dawn of a new era in high technology, entertainment, information and telecommunications—America continues to operate under an antiquated regulatory regime. Our current regulatory scheme in America simply does not take many dramatic technological changes into account.

Progress is being stymied by a morass of regulatory barriers which balkanize the telecommunications industry into protective enclaves. We need to devise a new national policy framework—a new regulatory paradigm for telecommunications—which accommodates and accelerates technological change and innovation.

The very same digitization phenomenon supports the prospect of competition by telephone companies and against telephone companies, by cable companies and against cable companies, by long distance companies and against long distance companies. Incumbents on opposite sides of the traditional regulatory apartheid scheme have quite different views about which kind of competition should come first.

If Congress cannot come to grips with digitization and convergence, the private sector cannot be expected to wait. Indeed, the multifaceted deals and alliances of the last several years indicates that industry is not waiting.

Look at a short list of some of these deals:

US West/Time Warner. The world's largest entertainment company, and second ranking cable company, teaming up with the RBOC for the western United States.

AT&T/McCaw. The biggest long distance and equipment maker joining with the biggest cellular carrier. That came on the heels of AT&T acquiring one of the biggest computer companies—NCR.

Sprint/Cable Alliance. The third largest long distance company—and only company with local, long distance and wireless capability—joining cable's TCI, Comcast, Cox, and Continental to form an alliance to provide a nationwide wireless communications service—and the prospect for joining Sprint's broadband long distance lines with cable's high capacity local facilities.

Microsoft. There has been an almost endless series of strategic alliances being struck between Microsoft, the world's largest computer software company, and companies in numerous information and telecommunications businesses for the purpose of delivering interactive services.

HDTV Grand Alliance. The companies teaming up to bring HDTV to America include AT&T—the largest telecom equipment maker—General Instrument—the largest cable TV equipment maker—and Phillips—the world's largest TV set maker.

In addition, layered on top of these and many other deals and alliances is the globalization phenomenon—a breakdown of geographic barriers: all the RBOC's have foreign investments; British Telecom and MCI in partnership; Sprint planning the same with France Telecom and Deutsche Telecom; AT&T also working with Singapore Telecom, Cable & Wireless's Hong Kong Telephone, and the Netherlands Telecom.

We can no longer keep trying to fit everything into the old traditional regulatory boxes—unless we want to incur unacceptable economic costs, competitiveness losses, and deny American consumers access to the latest products and services.

Since becoming chairman of the committee I have been actively working with leaders in the telecommunications and information industry to reform this outmoded and antiquated, regulatory apartheid system in order to make exciting new information, telecommunications and entertainment services available for America.

It is time for American policymakers to meet this new challenge much the way an earlier generation responded when the Russians launched Sputnik. The response must be rooted in the American tradition of free enterprise, de-regulation, competition, and open markets—to let technology follow or create new markets, rather than Government micromanaging and stunting developments in telecommunications and information technology.

By reforming U.S. telecommunications policy we in Congress have an unparalleled opportunity to unleash a digital, multimedia technology revolution in America. By freeing American technological know-how, we can provide Americans with immediate access to and manipulation of a bounty of entertainment, informational, educational, and health care applications and services.

Passing S. 652, The Telecommunications Competition and Deregulation Act of 1995, will have profound implications for America's economic and social welfare well into the 21st Century.

Fourth. Universal service:

An additional, but often overlooked, reason for immediately moving forward with S. 652 and telecommunications regulatory reform concerns the problems affecting the centerpiece of American communications policy—maintaining universal voice telephone service at reasonable and affordable prices.

The explicit subsidies—those of known magnitude and direction—can and should be maintained. These are the "Universal Service Fund," the "Link-Up America" program, and others the FCC made part of the overall access charge system.

The implicit—or hidden—subsidies are much more at risk. The present scheme cannot be maintained when new technology is changing so rapidly and customers are provided with an ever-increasing buffet of choices. This implicit subsidy scheme must be reformed and fixed. We cannot afford to wait any longer to start that reform process.

F. WHAT S. 652 DOES: CHIEF REFORM FEATURES

First. Universal telephone service:

The need to preserve widely available and reasonably priced telephone service is one of the fundamental concerns addressed in The Telecommunications Competition and Deregulation Act of 1995. The legislation as reported requires all telecommunications carriers to contribute to the support of universal service. Only telecommunications carriers designated by the FCC or a State as "essential telecommunications carriers" are eligible to receive support payments.

The bill directs the FCC to institute and refer to a Federal-State joint board a proceeding to recommend rules to implement universal service and to establish a minimum definition of universal service. A State may add to the definition for its local needs.

Second. Local telephone competition:

The Telecommunications Competition and Deregulation Act of 1995 reforms the regulatory process to allow competition for local telephone service by cable companies, long distance companies, electric companies, and other entities.

Upon enactment the legislation preempts all State and local barriers to competing with the telephone companies. In addition it requires local exchange carriers [LEC's] having market power to negotiate, in good faith, interconnection agreements for access to unbundled network features and functions at reasonable and nondiscriminatory rates. This would allow other parties to provide competitive local telephone service through interconnection with the LEC's facilities. The bill establishes minimum standards relating to types of interconnection that a LEC with market power must agree to provide if requested, including: unbundled access to network functions and services, unbundled access to facilities and information, necessary for transmission, routing, and interoperability of both carriers' networks, interconnection at any technologically feasible point, access to poles, ducts, conduits and rights-of-way, telephone number portability, and local dialing parity.

As an assurance that the parties negotiate in good faith, either party may ask the State to arbitrate any differences, and the State must review and approve any interconnection agreement.

The bill requires that a Bell company use a separate subsidiary to provide certain information services, equipment manufacturing, in-region interLATA services authorized by the FCC, and alarm monitoring. In addition a Bell company may not market a subsidiary's service until the Bell company is authorized by the FCC to provide in-region interLATA services.

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S. 652 also ensures that regulations applicable to the telecommunications industry remain current and necessary in light of changes in the industry. First, the legislation permits the FCC to forbear from regulating carriers when forbearance is in the public interest. This will allow the FCC to reduce the regulatory burdens on a carrier when competition develops, or when the FCC determines that relaxed regulation is in the public interest. Second, the bill requires a Federal-State joint board to periodically review the universal service policies. Third, the FCC, with respect to its regulations under the 1934 act, and a Federal-State joint board with respect to State regulations, are required in odd-numbered years beginning in 1997 to review all regulations issued under the act or State laws applicable to telecommunications services. The FCC and joint board are to determine whether any such regulation is no longer in the public interest as a result of competition.

The bill modifies the foreign ownership restrictions of section 310 of the 1934 act, if the FCC determines that the applicable foreign government provides equivalent market opportunities to U.S. citizens and entities.

The bill also requires that equipment manufacturers and telecommunications service providers ensure that telecommunications equipment and services are accessible and usable by individuals with disabilities, if readily achievable, a standard found in the Americans with Disabilities Act.

Third. Long distance relief for the Bell companies:

The Telecommunications Competition and Deregulation Act of 1995 establishes a process under which the regional Bell companies may apply to the FCC to enter the long distance or interLATA market. Since the 1984 breakup of AT&T, the Bell companies have been prohibited from providing services between geographical areas known as LATAs, [Local Access and Transport Areas]. The legislation reasserts congressional authority over Bell company provision of long distance and restores the FCC authority to set communications policy over these issues. The Attorney General has a consulting role.

The reported bill requires Bell local companies and other LEC's having market power to open and unbundle their local networks, to increase the likelihood that competition will develop for local telephone service. It also sets forth a competitive checklist of unbundling and interconnection requirements.

If a Bell company satisfies the competitive checklist, the FCC is authorized to permit the Bell company to provide interLATA services originating in areas where it provides wireline local telephone service, if the FCC also finds that Bell company provision of such interLATA service is in the public interest. Out-of-region interLATA services may be provided by Bell companies upon enactment.

S. 652 allows the Bell companies to provide interLATA services in connection with the provision of certain other services immediately, with safeguards to ensure that the Bell companies do not use this authority to provide otherwise prohibited interLATA services. For example the reported bill requires a Bell company to lease facilities from existing long distance companies if it uses interLATA service in the provision of wireless services and certain information services.

Finally, the bill requires a Bell company providing in-region interLATA service authorized by the FCC to use a separate subsidiary for such services.

Fourth. Manufacturing authority for the Bell companies:

The judicial consent decree that governed the breakup of AT&T in 1984, the MFJ, also prohibited the Bell companies from manufacturing telephones and telephone equipment. The AT&T breakup itself, the globalization of the communications equipment market, the concentration of equipment suppliers, the increasing foreign penetration of the U.S. market, and the continued dispersal of equipment consumption have greatly diminished any potential market power of the Bell companies over the equipment market.

The bill permits a Bell company to engage in manufacturing of telecommunications equipment once the FCC authorizes the Bell company to provide interLATA services. A Bell company can engage in equipment research and design activities upon enactment.

In conducting its manufacturing activities, a Bell company must comply with the following safeguards:

A separate manufacturing affiliate.

Requirements for establishing standards and certifying equipment.

Protections for small telephone companies—a Bell manufacturing affiliate must make its equipment available to other telephone companies without discrimination or self-preference as to price delivery, terms, or conditions.

Fifth. Cable competition, video dialtone and direct-to-home satellite services:

The bill permits telephone companies to compete against local cable companies upon enactment, although until 1 year after enactment the FCC would be required to approve Bell company plans to construct facilities for common carrier video dialtone operations. The bill also removes at enactment all State or local barriers to cable companies providing telecommunications services, without additional franchise requirements.

The reported bill does not require telephone companies to obtain a local franchise for video services as long as they employ a video dialtone system that is operated on a common carrier basis, that is, open to all programmers. If a telephone company provides service over a cable system—that is, a system not open to all programmers—the telephone company will be treated as a cable operator under title VI of the 1934 act.

Whether a telephone company uses a video dialtone network or a cable system, it must comply with the same must-carry requirements for local broadcast stations that currently apply to cable companies. A separate subsidiary is not required for a Bell company carrying or providing video programming over a common carrier platform if the company provides nondiscriminatory access and does not cross-subsidize its video operations.

The bill maintains rate regulation for the basic tier of programming where the cable operator does not face effective competition—defined as the provision of video services by a local telephone company or 15 percent penetration by another multichannel video provider. The bill minimizes regulation of expanded tier services.

Specifically the bill eliminates the ability of a single subscriber to initiate at the FCC a rate complaint proceeding concerning expanded tier services. In addition, the FCC may only find rates for expanded tier service unreasonable, and subject to regulation, if the rates substantially exceed the national average rates for comparable cable programming services.

States may impose sales taxes on direct-to-home satellite services that provide services to subscribers in the State. The right of State and local authorities to impose other taxes on direct-to-home satellite services is limited by the bill.

Sixth. Entry by registered utilities into telecommunications:

Under current law, gas and electric utility holding companies that are not registered may provide telecommunication services to consumers. There does not appear to be sufficient justification to continue to preclude registered utility holding companies from providing this same competition.

The bill provides that affiliates of registered public utility holding companies may engage in the provision of telecommunications services, notwithstanding the Public Utility Holding Company Act of 1935. The affiliate engaged in providing telecommunications must keep separate books and records, and the States are authorized to require independent audits on an annual basis.

Seventh. Alarm services:

The bill prohibits a Bell company from providing alarm monitoring services. Beginning 3 years after enactment, a Bell company may provide such services if it has received authorization from the FCC to provide in-region interLATA service. The bill requires the FCC to establish rules governing Bell company provision of alarm monitoring services. A Bell company that was in the alarm service business as of December 31, 1994 is allowed to continue providing that service, as long as certain conditions are met.

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Eighth: Spectrum flexibility and regulatory reform for broadcasters:

If the FCC permits a broadcast television licensee to provide advanced television services, the bill requires the FCC to adopt rules to permit such broadcasters flexibility to use the advanced television spectrum for ancillary and supplementary services, if the licensee provides to the public at least one free advanced television program service. The FCC is authorized to collect an annual fee from the broadcaster if the broadcaster offers ancillary or supplementary services for a fee to subscribers.

A single broadcast licensee is permitted to reach 35 percent of the national audience, up from the current 25 percent. Moreover, the FCC is required to review all of its ownership rules biennially. Broadcast license terms are lengthened for television licenses from 5 to 10 years and for radio licenses from 7 to 10 years. Finally, new broadcast license renewal procedures are established.

Ninth. Obscenity and other wrongful uses of telecommunications:

The decency provisions in the reported bill modernize the protections in the 1934 act against obscene, lewd, indecent, and harassing use of a telephone. The decency provisions increase the penalties for obscene, harassing, and wrongful utilization of telecommunications facilities, protect families from uninvited cable programming which is unsuitable for children, and give cable operators authority to refuse to transmit programs or portions of programs on public or leased access channels which contain obscenity, indecency, or nudity.

The bill provides defenses to companies that merely provide transmission services, navigational tools for the Internet, or intermediate storage for customers moving material from one location to another. It also allows an on-line service to defend itself in court by showing a good-faith effort to lock out adult material and to provide warnings about adult material before it is downloaded.

G. THE DEREGULATORY NATURE OF S. 652

Ronald Reagan once joked—in the midst of a debate over the budget—that the only reason Our Lord was able to create the World in 6 days was that he didn't have to contend with the embedded base.

I have been wrestling with the communications issues since I came to Congress. We all have. This has become the congressional equivalent of Chairman Mao's famous "Long March."

Nothing in the field is easy. We are dealing with basic services—telephone, TV, and cable TV—that touch virtually every American family. We are dealing with massive investment—more than half a trillion dollars. We are dealing with industries which provide almost two million American jobs. We are dealing with high-tech enterprises that are critical to the future of the American economy, and our global competitiveness.

The stakes are high for everyone. And it is the sheer number of issues and concerns that accounts for the complexity of any legislation.

First. A major step forward:

But let me talk briefly about some of the major steps forward which are envisioned in this bill.

When the former head of the National Telecommunications & Information Administration testified before the Senate, he commented that, "Everything in the world is compared to what."

Well, virtually all of the bills which the Senate or the House has dealt with over the past generation took the concept of regulated monopoly as a given.

Whether we are talking about Congressman Lionel Van Deerlin's bill, H.R. 1315 in the House in the 1970's; or Senator PACKWOOD's effort back in 1981—S. 898: All of these bills assumed that monopoly, like the poor, would always be with us.

Second. A paradigm shift:

My bill changes that. Instead of conceding that concern, this bill:

Removes virtually all legal barriers to competition in all communications markets—local exchange, long distance, wireless, cable, and manufacturing.

It establishes a process that will require continuing justification for rules and regulations each 2 years. Every 2 years, in other words, all the rules and regulations will be on the table. If they don't make sense, there is a process established to terminate them.

It restores full responsibility to Congress and the FCC for regulating communications. Under the bill that the House passed last spring, for example, you would have still had a substantial, continuing involvement in communications policy on the part of the Justice Department and the Federal courts. This bill brings the troops home.

Third. Genuinely deregulatory:

I understand the concerns that some of my colleagues have raised. Senator MCCAIN has raised the question of whether this bill is deregulatory enough. Senator PACKWOOD has asked if we could not speed up the transition to full, unregulated competition. These are valid concerns.

But let me highlight some of the deregulatory steps which this bill makes possible now.

First, it will make it possible for the FCC immediately to forebear from economically regulating each and every competitive long-distance operator. The Federal courts have ruled that the FCC cannot deregulate. This bill solves that problem and makes deregulation legal and desirable.

Second, this bill envisions removing a whole chunk of unnecessary cable television price controls now. We leave the power to control basic service charges, until local video markets are more competitive. But the authority to regulate the nonbasic services, the expanded tiers, is peeled back. That represents a major step toward deregulation and more reliance on competitive markets.

Third, this bill contains a competitive checklist for determining Bell Co. entry into currently prohibited markets like long distance and manufacturing. After Bell companies satisfy all the requirements, the FCC must, in effect, certify compliance by making a public interest determination.

This is not—contrary to some allegations—more regulation. At least one of the Bell companies—NYNEX—can probably fulfill all the checklist's requirements very soon, because State regulators have already required that company to make the most of the necessary changes in the way it does business. The bill also explicitly says that the competitive checklist cannot be expanded.

So, if you read all the provisions in the bill in context, you will see that there simply is no broad grant of discretion to the Federal or State regulators here. We have essentially spelled out the recipe for competition, and it is incumbent on them to follow it.

Fourth.—Future orientation:

Let me mention another critical aspect of this bill, it is future oriented.

Too many of the earlier measures were focused on the status quo. What they basically did was rearrange existing markets and services. The 1984 and 1992 Cable Television Acts, for instance, did not take steps to encourage competition, it kept in place all the restrictions on telephone company and broadcast competition. Moreover, the 1984 Cable Act also maintained exclusive franchising for cable television.

This bill essentially seeks to change that focus. We assumed that cable television might become an effective competitor to local phone companies, for instance, so we sought to get rid of any regulations that would block that. We also assumed that local phone companies might be effective cable competitors, so we tried to get rid of restrictions on that kind of competition.

In the case of broadcasting, we recognized that this important industry is going to need much more flexibility to compete effectively in tomorrow's multichannel world. So, we will allow broadcasters to offer more than just pictures and sound as well as multiple channels of pictures and sound, if they so choose. Under this bill, they will have the flexibility they need to compete in evolving markets.

Fifth. Safeguarding core values:

This bill is aggressively deregulatory. It seeks to achieve genuine, long-term reductions in the level and intensity of Federal, State and local governmental involvement in telecommunications.

But this bill is also responsibly deregulatory. When it comes to maintaining universal access to telecommunications services, for instance, it does that. It establishes a process that will make sure that rural and

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small-town America doesn't get left in the lurch.

This bill also maintains significant Federal oversight. Telecommunications, remember, isn't like trucking, or railroads, or airline transportation. The services we are talking about here are marketed and consumed directly by the public.

This bill seeks to advance core values. I know that the Exon Amendment—which places limits on obscene and indecent computer communications—has sparked controversy. All that amendment actually does is apply to computer communications the same guidelines and limitations which already apply to telephone communications.

Sixth. Further responsibility:

This bill also recognizes the fact that deregulation is always a gradual, transitional process—and that Congress has the responsibility to stay involved.

All of us know that good legislation is only one facet of the overall deregulatory process. Other requirements are careful scrutiny of budgets, of appointments to the FCC and other agencies, and effective Congressional oversight. No one should try to fool themselves into believing that we can get away on the cheap. We can't.

If we are serious about deregulating this marketplace and—more importantly—expanding the range of competitive choices available to the American public, Congress is going to have to stay a central player.

Seventh. Summary of affirmative aspects:

Let me summarize, then, what I see as very positive, affirmative aspects of this bill:

First, it dispenses with the old government-sanctioned monopoly model and replaces it with a process of open access which will lead to more competition across-the-board, in every part of the communications business. It flattens all regulatory barriers to market entry in all telecommunications markets. The more open access takes hold, the less other government intervention is needed to protect competition. Open access is the principle establishing a fair method to move local phone monopolies and the oligopolistic long distance industry into full competition with one another. Completion of the steps on the pro-competitive checklist will give both the long distance firms and the local telephone companies confidence that neither side is gaming the system.

Second, it eliminates a number of unnecessary rules and regulations now—by giving the FCC the discretion to forebear from regulating competitive communications services, by removing unneeded, high-tier, cable price controls.

Third, it establishes a process for continuing attic-to-basement review of all regulations on a 2 year cycle.

Fourth, it seeks to create an environment that is more conducive to more new services and more competitors—by allowing broadcasters and cable operators, for instance, greater competitive flexibility, and giving local and long distance phone companies more chances to compete as well.

Fifth, it terminates the involvement of the Justice Department and the Federal courts in the making of national telecommunications policy.

Sixth, the bill emphasizes effective competition while also safeguarding core values, such as universal service access and limitations on indecency; and,

Finally, it maintains the responsibility of Congress to continue to work through the budget, oversight, and confirmation processes to move this critical sector toward full competition and deregulation.

H. BENEFITS OF S. 652

In General. Competition and deregulation in telecommunications as a result of the Pressler Bill means:

Lower prices for local, cellular, and long distance phone service, and lower cable television prices, too.

More and less costly business and consumer electronics to make U.S. business more competitive and American citizens better informed.

Expanded customer options, as business is spurred to bring new technology to the marketplace faster. In addition to more choices for long distance, cellular, broadcast, and other services where competition already exists, competition and choice in local phone and cable services will be introduced.

High technology jobs with a future for more Americans, economic growth, and continued U.S. leadership in this critical field. The President's Council of Economic Advisors estimates that deregulating telecommunications laws will create 1.4 million new jobs in the services sector of the economy alone by the year 2003. In a Bell Company funded study, WEFA concluded that telecommunications deregulation would cause the U.S. economy to grow 0.5 percent faster on average over the next 10 years, creating 3.4 million new jobs by the year 2005, and generating a cumulative increase of $1.8 trillion in real GDP. Finally, George Gilder has estimated $2 trillion in additional economic activity with the Pressler Bill.

More exports of high-value products, and greater success on the part of U.S.-based telecommunications equipment $10.25 billion, and services $3.3 billion, companies as well as computer equipment $29.2 billion, companies as they leverage their domestic gains to make more sales overseas.

In Media. Competition and deregulation in electronic media including broadcasting, cable, and satellite services means:

More Networks and Channels. In the early 1970s, there were three national TV networks and virtually no cable systems. Today, there are 6 national TV networks, plus 10,000 cable TV systems serving 65 percent of American homes—96% have the cable option—with DBS now offering digital service to millions more. The average American family now has access to some 30 video channel choices. Much more is on the way if the Pressler Bill is enacted into law.

More News and Public Affairs. Cable deregulation—spurred by satellite communications deregulation—made more news and public affairs programming available. CNN, C-SPAN, and ESPN are prime examples. Local all news channels and local C-SPAN-oriented programming is on its way if deregulation occurs.

More Jobs. Relaxing broadcast rules and regulations—spurred by the growth of cable TV—made it possible for some 300 new TV and 2,000 new radio outlets to emerge. This created 10,000 new jobs in broadcasting.

Small town and rural America parity. Satellites and cable TV service means small town and rural Americans command nearly the same media choices only big city residents once enjoyed. This democratization has spurred public awareness of national and international events—as well as encouraged fuller participation in the political process.

Political shift. Satellites, cable, talk radio, and C-SPAN, which were a specific result of deregulation and competition in communications, were prime ingredients to last year's landmark national political shift. Further decentralization of media control through deregulation will accelerate this democratization phenomenon.

In telephone service. Competition and deregulation in the telephone business *means:*

Lower prices. Deregulation of phone equipment resulting in faster deployment of advanced equipment has made it possible to reduce local phone rates by $4 billion since 1987. More long distance competition has meant nearly $20 billion in price cuts since 1987. Virtually all Americans now have far more choices in phone equipment and long distance service—and with the Pressler Bill will see choices in local phone services.

New options. Sixty million American families now have cordless phones. Twenty-five million now have cellular phones. Fifty million have answering machines. Twenty million have pagers. Deregulation has allowed technology to evolve to meet the demands of an increasingly mobile society.

Special benefits. Cellular phones have helped millions of American women feel safer and more secure. They have made it possible to drive safely under even the most severe weather conditions, because now help can be called.

Computer services. Competition and deregulation in telecommunications will speed the deployment of the so-called information superhighway. Currently, 40 percent of American homes have a personal computer. Computers are ubiquitous for American business. There is one school computer for every nine students. Competition and deregulation will mean new communications

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facilities that will magnify the power of these computers.

International competitiveness. Telecommunications is a prime leverage technology. Competition and deregulation expands business access to this new technology. That makes American business more competitive globally. Deregulation also spurs U.S. production and export of high value-added products like computers, advanced telephone switches, mobile radios, and fiber optics. Each dollar invested in telecommunications results in $3 of economic growth.

For agriculture. For agriculture, competition and deregulation in communications means:

Efficiency. Farms today are the most technology-intensive small businesses. American farmers will be able to harness computer, communications, and satellite technology to stay the world's most efficient lowest cost food producers.

Integration with the national community. Communications advances help integrate the farm community with Americans nationwide. Farm families will have the same news, public affairs, and entertainment choices nearly any American does.

Distance learning/telemedicine. Schools in small town and rural areas will be able to offer the same schooling options as those in the suburbs and major cities. Telemedicine systems will improve the quality of health care available in small town and rural America, especially for the home bound elderly in our society.

More jobs. Deregulation means more modern communications systems as costs drop for small town and rural areas which, in turn, help these areas attract and retain businesses and jobs. Communications deregulation in Nebraska meant thousands of new jobs for the State. Deregulation in North Dakota did the same—one of the country's biggest travel agencies now operate out of Linder and employs several hundred local people.

For Government. For Government agencies, competition and deregulation in telecommunications means:

Better service. With voice mail, smart phone services—for example, to renew your library book, press 1, facsimile, and electronic mail, Federal, State and local agencies will be able to provide the public better service.

Reduced cost. Technology through deregulation and competition also helps Government curb costs. Taxpayers thus get better service without having to pay more. The right-sizing of Government agencies is made possible.

Responsiveness. Using all the latest communications technologies, Government offices will be able to greatly expand their constituent services, including here on Capitol Hill.

For business. For business, competition and deregulation in telecommunications means:

No geographical disadvantage. The ability to locate businesses away from center cities, and to allow many workers, especially working mothers, to telecommute thus reducing urban traffic congestion, pollution problems, and easing child care problems.

Expanding markets. Fax, 800-numbers, United Parcel, and Federal Express have made it possible for even the smallest companies today to compete on a state-wide, regional, national, and even international scale.

Working smarter. Satellite networks, computerized point-of-sale terminals—cash registers—and computerized inventory systems often linked directly to suppliers make it possible for U.S. retailers and other businesses to stay very competitive without being overstocked or understocked. Technology which will be made more available through deregulation has also allowed stores to operate in once remote areas. Wal-Mart has become America largest retailer, despite its largely rural origins, chiefly because the company was able to harness the best in contemporary communications.

For educators. For educators, competition and deregulation in telecommunications means:

Greater parity. Students in small town and rural America, and in inner cities, will be able to access the same information and instructional resources only wealthy suburban districts have. Advanced math, science, and foreign language courses that many schools could not offer previously are available through telecommunications. This reduces the pressures to close or consolidate small town and rural schools and other institutions, which helps communities maintain their unique local character.

Lower costs. Competition lowers the cost of telecommunications equipment and services. This makes it possible for schools to adopt communications techniques without needing to expand budgets and local taxes.

For law enforcement. For law enforcement, competition and deregulation in telecommunications means:

Efficiencies. Communications equipment prices will continue to fall. Police will be able to afford to buy on board computers, advanced radiocommunications, and other high-tech systems. This magnifies the effectiveness of law enforcement budgets.

Better coordination. Advanced communications and computer systems will result in far better coordination among Federal, State, and local law enforcement agencies. Nationwide criminal records, drunk driving, stolen car, and other checks can be undertaken quickly and cheaply. This means law breakers will face a higher risk of apprehension, which means a stronger deterrent against crime.

Personal security. Advanced computer and communications technology place home security systems within reach of more and more American families. Easier access to cellular phones will help Americans stay safer and feel more secure. At the same time, these telecommunications and information technologies help police, fire department and emergency medical services drastically reduce response times. In the case of emergency medical services far better on-the-spot service will be provided.

For South Dakota and other small city and rural areas:

The bill is designed to rapidly accelerate private sector development of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition.

Recent series of television commercials have shown people sending faxes from the beach, having meetings via computer with people in a foreign country, using their computer to search for theater tickets and a host of other services that soon will be available. My bill would make those services available even sooner by removing restrictive regulations.

A person living in Brandon could work at a job in Minneapolis or Chicago, students in Lemmon would be able to take classes from teachers in Omaha, and doctors in Freeman could consult with specialists at the Mayo Clinic. Telecommunications can bring new economic growth, education, health care and other opportunities to South Dakota.

Competition in the information and communications industries means more choices for people in South Dakota. It will also mean lower costs and a greater array of services and technologies. For instance, competing for customers will compel companies to offer more advanced services like caller ID or local connections to on-line services such as Prodigy and America On-Line.

It hasn't been that long since Ma Bell was everyone's source for local phone service, long-distance service, and phone equipment. Now there are over 400 long-distance companies and people can buy phone equipment at any department or discount store. Under my bill, eventually people would be able to choose from more than one local phone service or cable television operator.

This new competition also should lead to economic development opportunities in South Dakota. People will be able to locate businesses in towns like Groton and Humboldt and serve customers in Hong Kong or New York City. We are entering an exciting era. I want to spur growth and bring new opportunities to South Dakota and everywhere in America.

J. CONCLUSION

S. 652 is legislation providing for the most comprehensive deregulation in the history of the telecommunications industry.

Enacting this bill means ending regulatory apartheid. Under the Communications Act of 1934 and the Federal judiciary's Modification of Final Judgment, sectors of the communications industry are forcibly separated and

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segregated. This created Government-imposed and sanctioned monopoly models for the telecommunications sector.

S. 652 tears down all the segregation barriers to competition and ends the monopoly model for telecommunications. It opens up unprecedented new freedom for access, affordability, flexibility, and creativity in telecommunications and information products and services.

Passing S. 652 will hasten the arrival of a powerful network of two-way broadband communications links for homes, schools, and small and large businesses. For my home State of South Dakota, and other States away from the big population centers, this reform bill will make the Internet and other computer communications more easily accessible and affordable.

Local phone companies, long-distance phone companies, cable TV systems, broadcasters, wireless and satellite communications entities, and electric utility companies all will gain freedom to compete with one another in the communications business.

S. 652 is not only a deregulation bill, it is a procompetitive bill. There is an important distinction. The 1984 Cable Act; for instance, deregulated rates for the cable industry but explicitly kept intact the barriers keeping telephone, electric companies, broadcasters, and others from competing for cable TV service. Keeping the monopoly model in place while lifting the lid on prices led directly to a backlash and reregulation in the Cable Act of 1992.

This reform law will open the door for billions of dollars of new investment and growth. The United States is the world leader in telecommunications products, software, and services. Still, we labor under self-defeating limits on our ability to grow at home and compete abroad. Most foreign countries retaliate for the strict U.S. limits on foreign investment. This keeps us out of markets where we would have the natural competitive advantage and leaves them open to our competitors. Telecommunications innovation and productivity is flourishing in such countries as the United Kingdom, which has eliminated many barriers to foreign investment. The new legislation will lift limits on foreign investment in U.S. common carrier enterprises on a fair, reciprocal basis.

To maintain our world leadership position we need new legislation. S. 652 will improve international competitiveness markedly by expanding exports. In 1994, according to the Department of Commerce, telecommunications services—local exchange, long distance, international, cellular and mobile radio, satellite, and data communications—accounted for $3.3 billion in exports. Telecommunications equipment—switching and transmission equipment; telephones; facsimile machines; radio and TV broadcasting equipment; fixed and mobile radio systems; cellular radio telephones; radio transmitters, transceivers and receivers; fiber optics equipment; satellite communications systems; closed-circuit and cable TV equipment—accounted for $10.25 billion in exports. Finally, computer equipment accounted for $29.2 billion in exports. With this new legislation, telecommunications and computer equipment and services will be America's No. 1 export sector.

S. 652 will spur economic growth, create new jobs, and substantially increase productivity. As noted earlier, each dollar invested in telecommunications results in 3 dollars' worth of economic growth. The Clinton/Gore administration estimates that with telecommunications deregulation the telecommunications and information sector of the economy would double its share of the GDP by 2003 and employment would rise from 3.6 million today to 5 million by 2003. The WEFA Group, in a Bell Company funded study, stated that with telecommunications deregulation 3.4 million jobs would be created in the next 10 years. In addition, the GDP would be approximately $300 billion higher, and consumers would save approximately $550 billion. Finally, George Gilder recently testified before the Senate Commerce Committee that if telecommunications deregulation like that contemplated in S. 652 does not take place, America will lose up to $2 trillion in new economic activity in the 1990s.

S. 652 will also assist in delivering better quality of life through more efficient provision of educational, health care and other social services. Distance learning and telemedicine applications are especially important in rural and small city areas of America. With the advent of digital wireless technologies the cost of providing service will be lowered tenfold thus closing the gap between the costs of serving urban and rural areas.

If we in Congress do our job right, by passing this legislation, we have the potential to be America's new high-tech pioneers—an opportunity to explore the new American frontier of high-tech telecommunications and computers that will be unleashed through bold free enterprise, de-regulatory, procompetitive, open entry policies. By taking a balanced approach which doesn't favor any industry segment over any other, we will First, stimulate economic growth, jobs, and capital investment; second, help American competitiveness; third, minimize transitional inequities and dislocations; and fourth, actually do something very good for universal service goals.

Mr. President, on March 28, the Committee on Commerce, Science, and Transportation voted 17 to 2 to report S. 652, the Telecommunications Competition and Deregulation Act of 1995.

Telecommunications policy usually rates attention on the business pages, not as a front-page story. Still, for the average American family, legislation to reform regulations of our telephone, cable, and broadcasting industries is surely one of the most important matters the 104th Congress will consider.

OPEN, DELIBERATE PROCESS

Mr. President, this reform legislation was years in the making. It is the handiwork of numerous Senators from both parties, who have shared a common recognition that our laws are outdated and anticompetitive.

The recent hearing process which informed the Commerce Committee and led to development of S. 652 began in February 1994. During 1994 and 1995 the Commerce Committee held 14 days of hearings on telecommunications reform. The committee heard testimony from 109 witnesses during this process. The overwhelming message we received was that Americans want urgent action to open up our Nation's telecommunications markets.

At the beginning of the 104th Congress, on January 31 of this year, I circulated a discussion draft of a telecommunications deregulation bill which reflected ideas from all the Republican members of the Commerce Committee. I invited the comments of ranking Democratic member HOLLINGS and other Democratic members. In just 2 weeks time, Senator HOLLINGS presented a comprehensive response. He has been a tremendous ally in this effort, as have many of my colleagues on the committee.

Senator HOLLINGS and I and Democratic and Republican members of the committee, together with the majority and minority leaders, then engaged in an open, deliberate, productive process of discussion and negotiation.

Mr. President, it is accurate to say that staff from both parties have worked night after night, weekend after weekend, with scarcely any respite, since before Christmas on this bill.

Mr. President, just as it won overwhelming bipartisan support in committee, S. 652 deserves passage by a strong bipartisan vote here on the floor of the Senate.

When I travel around my State of South Dakota and see the craving for distance learning, for telemedicine, for better access to the Internet and the other networks taking shape to improve our productivity and quality of life, it helps me understand the need for this legislation, the need to work and fight for this reform.

Mr. President, the obstacles for progress in telecommunications are not technical. They are political. We have it in our power to tear those obstacles down. S. 652 does a substantial part of the job of tearing them all down.

RESTORING CONGRESSIONAL RESPONSIBILITY

S. 652 returns responsibility for communications policy to Congress after years of micromanagement by the courts. This bill will terminate judicial control of telecommunications policy, in particular, Federal Judge Harold

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Greene's "Modification of Final Judgment" regime which has governed the telephone business since the breakup of AT&T in 1984.

When the courts control policy, they are restricted to narrow considerations. Congress, on the other hand, takes into account a whole range of economic and social implications in establishing a national policy framework. S. 652 provides such an approach to telecommunications reform.

Piecemeal policymaking by the courts severely delays productive economic activity. The average waiver process before the Department of Justice and the court takes an average of 4½ to 5 years to complete. Such delays cause uncertainty in markets and significantly reduce investment in telecommunications, an increasingly vital sector of our economy.

PROFOUNDLY PRO-CONSUMER

Our electronic media are in a creative tumult known as the digital revolution. New technology is erasing old distinctions between cable TV, telephone service, broadcasting, audio and video recording, and interactive personal computers. In many instances, the only thing standing in the way of consumers and businesses enjoying cheaper and more flexible telecommunications services are outdated laws and regulations.

Mr. President, S. 652 is profoundly proconsumer. The bill breaks up monopolies—that's proconsumer. The bill sweeps away burdensome regulations. This will lower consumer costs—that's proconsumer.

The bill opens up world investment markets for the U.S. telecommunications business. The impact will be more jobs, new services, lower costs—that's proconsumer.

Mr. President, American consumers and businesses want to enjoy the full benefits of the digital revolution. They want more communicating power, more services, more openings, and lower prices. They want wide-open competition.

It is possible for Americans to have all of these. The obstacles in their way are not technical. We have the most powerful economy, the most advanced technological base in the world. The obstacles are political.

The information industry already constitutes one-seventh of the U.S. economy. Worldwide, the information marketplace is projected to exceed $3 trillion by the close of the decade. Today's Federal laws prevent different media from competing in one another's markets, although they have the technical ability to do so.

The regional Bell operating companies are protected with monopoly status in the local residential phone service markets. But they are barred from manufacturing phone equipment, offering long-distance service, or competing in a cable video market. Cable companies, though technically capable, are forbidden to offer competing phone service.

The status quo preserves monopolies and keeps American consumers from access to an array of products and service options. The existing system of law, regulation, and court decrees, holds back the American telecommunications industry from its full potential to compete in world markets.

S. 652 would change all this. It would bring about the most fundamental overhaul of communications policy in more than 60 years. It will break up the monopolies and increase competition. S. 652 immediately lifts regulations barring local telephone companies' entry into cable service and cable's entry into the local phone business.

It allows electric utilities to offer service in both the phone and cable markets, and provides fair, effective, and rapid means to make certain that local Bell companies abandon all vestiges of monopoly. Then it allows those companies into the long-distance and phone equipment manufacturing markets.

This bill ends decades of protectionism in the telephone investment markets. This will help assure access to capital to build the Nation's next generation informational networking.

On a reciprocal basis, it will give Americans more freedom to profit by making major investments in the telecommunications projects of growing markets abroad. For households and business in my home State of South Dakota and all around the Nation, S. 652 means lower prices for local, cellular, and long-distance phone service and lower cable television prices, too. The new competition also will spur companies to bring new technology and services to the marketplace faster.

Phone customers would be assured the same number of digits and the same listing in directory assistance and the white pages, whether they choose the local Bell company or a new competitor. What is more, phone numbers will be portable. A customer will keep the same number even if he or she moves among phone companies to get better prices.

S. 652 promotes competition in cable markets while protecting consumers from surges in rates. The outcome, I fully expect for consumers, perhaps as soon as a year from enactment of the bill, is plentiful competition and low rates without Federal controls.

Freeing business from overregulation is creative and it is proconsumer. There was heavy skepticism 15 years ago about deregulating natural gas prices, but look at the results. I remember I was in the House of Representatives in those days and everybody said if we deregulate natural gas, prices are going to soar. They did not. They went down. Natural gas prices are lower than ever.

Now consider how dramatic the difference in proconsumer advances have been between an unregulated part of the information sector—personal computers—compared with the heavily-regulated telephone sector.

The personal computer success story is especially important in my State of South Dakota. Because a firm that was a tiny start-up in South Dakota a few years ago, Gateway 2000, is now a major player in personal computer markets. It is one of the quality leaders in home computing products.

Computer industry entrepreneurs were free to gamble on the personal computer. No Federal or State regulator told them what they could and could not build, what specifications they had to meet, what markets to target. Market competition was fierce. Technological progress was breathtaking.

By 1990, the upstart personal computer industry was selling for $5,000 a computer with as much processing power as a $250,000 minicomputer of the mid-1980's, more than that of a million-dollar mainframe of the 1970's. Now personal computers with more than twice the processing power are available for $1,500.

The upshot, in terms of price and power, is that today's computer systems have over 200 times the value of systems in 1994. Even with the historic breakup of the AT&T long-distance monopoly, the telephone business has remained heavily regulated, and consumers have gained value. In 1984, a 10-minute call from New York to Los Angeles cost $5. Today it cost $2.50. It should cost less, and will cost less.

If competition and technological advances have developed in the long-distance market, as they had in the computer market over the same period, that same phone call would cost less than 3 cents today, rather than $2.50. Three cents.

The regulatory status quo needs shaking up. That is what S. 652 would do. It would do less for big existing companies than for the businesses and services that are still waiting to be created, and many of those will be small businesses. Most important, it would help bring about an explosion of new job opportunities and services for the American people.

Let me take just a moment to describe in detail the key reforms in S. 652. First, universal telephone service, the need to preserve widely available and reasonably priced services is a fundamental concern addressed in S. 652. The bill preserves universal service, improves it, and makes it cost less.

It requires all telecommunications carriers to contribute to the support of universal service. Only telecommunication carriers designated by the FCC or a State as "essential telecommunication carriers" are eligible to receive support payments. The bill directs the FCC to institute and refer to a Federal-State joint board, a proceeding to recommend rules to implement universal service and to establish a minimum definition of universal service. A State may add to the definition for its local needs.

Mr. President, to smaller cities and rural communities and others who depend upon universal service nothing is

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changed. They continue to enjoy affordable access to phone service as before. The most important impact of S. 652 is structural and management reform in universal service that will save the American taxpayers $3 billion over the next 5 years. I think that is important to say. The universal service of this will cost less in these years.

For local telephone competition, S. 652 gives a green light to local telephone competition. The bill breaks up the old monopoly system for local phone service. All Federal barriers to competition will be removed, and all State and local barriers will be preempted. Cable companies, long-distance companies, electric companies and other entities will gain a chance to offer lower prices and better service for local phone service.

Upon enactment, the legislation preempts all State and local barriers to competing with the telephone companies. In addition, it requires local exchange carriers having market powers to negotiate, in good faith, interconnection agreements for access to unbundled network features and functions that reasonable and nondiscriminatory rates.

This allows other parties to provide competitive service through interconnection with the LEC's facilities. The bill establishes minimum standards relating to types of interconnection that an LEC with market power must agree to provide if requested, including the following: Unbundled access to network functions and services; unbundled access to facilities and information; necessary for transmission, routing, and interoperability of both carriers' networks; interconnection at any technological feasible point; access of polls, ducts, conduits, and rights of way; telephone number portability; and local dialing parity.

As an assurance that the parties negotiate in good faith, either party may ask the State to arbitrate any differences, and the State must review and approve any interconnection agreement.

There is long distance and manufacturing relief for the Bell companies. The Telecommunications Competition and Deregulation Act of 1995 establishes a process under which the regional Bell companies may apply to the FCC to enter the long-distance market. Since the 1984 breakup of AT&T, the Bell companies have been prohibited from providing long-distance service. S. 652 reasserts congressional authority over Bell company provision of long distance and restores the FCC authority to set communication policy over those issues. The Attorney General has a consulting role.

The bill requires Bell local companies and other LEC's with marketing power to open and unbundle their local networks to increase the likelihood that competition will develop for local telephone service.

It sets forth a competitive checklist of unbundling and interconnection requirements. If a Bell company satisfies the checklist, the FCC is authorized to permit the Bell company to long-distance service if this is found to be in the public interest.

Once a Bell company has met the checklist requirements, it also will be allowed to enter the markets for manufacturing phone equipment.

In conducting its manufacturing activities, a Bell company must comply with the following safeguards:

A separate manufacturing affiliate;

Requirements for establishing standards and certifying equipment;

Protections for small telephone companies. A Bell manufacturing affiliate must make its equipment available to other telephone companies without discrimination or self-preference as to price delivery, terms, or conditions.

This bill also opens international investment markets.

S. 652 lifts limits on foreign ownership of U.S. common carriers. The bill establishes a reciprocity formula whereby a foreign national or foreign-owned company would be able to invest more than the current 25 percent limit in a U.S. telephone company if American citizens or firms enjoyed comparable opportunities. This would allow increased investment in and by the U.S. telecommunications industry, which enjoys worldwide comparative advantage.

Finally, in the area of cable competition, the bill permits telephone companies to compete against local cable companies upon enactment, although until 1 year after enactment the FCC would be required to approve Bell company plans to construct facilities for common carrier "video dialtone" operations. The bill also removes at enactment all State or local barriers to cable companies providing telecommunications services, without additional franchise requirements.

The bill maintains rate regulation for the basic tier of programming where the cable operator does not face "effective competition," defined as the provision of video services by a local telephone company or 15 percent penetration by another multichannel video provider. The bill minimizes regulation of expanded tier services. Specifically the bill eliminates the ability of a single subscriber to initiate at the FCC a rate complaint proceeding concerning expanded tier services. In addition, the FCC may only find rates for expanded tier service unreasonable, and subject to regulation, if the rates substantially exceed the national average rates for comparable cable programming services.

In the area of spectrum flexibility and regulatory reform for broadcasters, if the FCC permits a broadcast television licensee to provide advanced television services, the bill requires the FCC to adopt rules to permit such broadcasters flexibility to use the advanced television spectrum for ancillary and supplementary services, if the licensee provides to the public at least one free advanced television program service. The FCC is authorized to collect an annual fee from the broadcaster if the broadcaster offers ancillary or supplementary services for a fee to subscribers.

A single broadcast licensee is permitted to reach 35 percent of the national audience, up from the current 25 percent. Moreover, the FCC is required to review all of its ownership rules biennially. Broadcast license terms are lengthened for television licenses from 5 to 10 years and for radio licenses from 7 to 10 years. Finally, new broadcast license renewal procedures are established.

Entry by registered utilities into telecommunications is allowed.

Under current law, gas and electric utility holding companies that are not registered may provide telecommunication services to consumers. There does not appear to be sufficient justification to continue to preclude registered utility holding companies from providing this same competition. The bill provides that affiliates of registered public utility holding companies may engage in the provision of telecommunications services, notwithstanding the Public Utility Holding Company Act of 1935. The affiliate engaged in providing telecommunications must keep separate books and records, and the States are authorized to require independent audits on an annual basis.

ALARM SERVICES

Beginning 3 years after enactment, a Bell company may provide such services if it has received authorization from the FCC to provide in-region interLATA service. The bill requires the FCC to establish rules governing Bell company provision of alarm monitoring services. A Bell company that was in the alarm service business as of December 31, 1994 is allowed to continue providing that service, as long as certain conditions are met.

Finally, continuous review and reduction of regulation.

The bill also ensures that regulations applicable to the telecommunications industry remain current and necessary in light of changes in the industry. First, the legislation permits the FCC to forbear from regulating carriers when forbearance is in the public interest. This will allow the FCC to reduce the regulatory burdens on a carrier when competition develops, or when the FCC determines that relaxed regulation is in the public interest.

Second, the bill requires a Federal-State Joint Board to periodically review the universal service policies.

Third, the FCC, with respect to its regulations under the 1934 act, and a Federal-State Joint Board with respect to State regulations, are required in odd-numbered years beginning in 1997 to review all regulations issued under the act or State laws applicable to telecommunications services. The FCC and Joint Board are to determine whether any such regulation is no longer in the

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public interest as a result of competition.

In short, Mr. President, this bill promotes deregulation as far as it logically should go. It provides a kind of "sunset" process for all regulations which the bill does not abolish immediately.

I welcome the coming debate and vote on S. 652. I urge my colleagues to reassert congressional responsibility for telecommunications policy.

Let me say, in summary and in conclusion, Mr. President, what we are trying to do here is to get everyone into everyone else's business. The economic apartheid that has been a part of telecommunications since the act of 1934 should be brought to an end.

I believe the passage of this bill would be like the Oklahoma land rush, the going off of the gun, because presently a lot of investment in the United States is paralyzed because we do not have a roadmap for the next 5, 10, or 15 years until we get into the wireless age.

What is happening is that many of our companies are investing in Europe or abroad because they are prohibited from manufacturing or doing something here. As a result, American jobs are being lost.

This particular bill, if we can pass it, will provide a roadmap which businessmen and investors will be able to invest in and make an explosion of new devices, an explosion of new jobs, and will help our country a great deal.

I think it will help consumers by lowering prices and providing more devices, and it will also help labor by providing more jobs of the type that we need in our country.

I wish to pay tribute again to Senator HOLLINGS and his staff and all the Senators on the committee who have worked so hard—and Senators in this Chamber. I have spoken to all 100 Senators at some point on this bill and it has been a long time getting it up. I hope we can proceed through today and tomorrow.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, as the communications bill, S. 652, comes up for consideration, my first urge is one of gratitude. I want to thank the majority leader and minority leader for their leadership in calling up this bill and, of course, I particularly want to thank the chairman of our committee who has been outstanding in working all day long in getting this bill to the floor.

Senator LOTT on the majority side and Senator INOUYE, who was the chairman of our Communications Subcommittee, now the ranking member, have been working around the clock. Of course, particular thanks goes, again, for our staff members. I thank the chairman's staff—Paddy Link, Katie King, and Donald McLellan. On my staff particular gratitude must go to Kevin Curtin, John Windhausen, and Kevin Joseph for all their efforts.

We do not extend such thanks casually. This effort started in the fall of 1993, and every Friday morning we would meet with the Bell companies, the regional Bell operating companies. Every Tuesday morning the staffs would meet again with the competing interests of long distance and all the other industry interests. We have continued those meetings right up to this afternoon. We have been working, meeting, reconciling, trying our deadlevel best to bring a complicated measure up to the modern age of telecommunications.

To this Senator, they have all done an outstanding job. So it is not a casual "thanks," but it is one that is very genuine and sincere. We thank them all for their cooperation and understanding.

As this bill is called up, it is good to note and emphasize that the Commerce Committee reported it by a vote of 17 to 2 on March 23. It is a product of months and months of consideration and discussion by the committee and by Senators all involved. In the last Congress, Senators INOUYE, Danforth, and I sponsored S. 1822, which was approved at that time by the Commerce Committee by a vote 18 to 2.

The committee held 31 hours of testimony, 11 days of hearings, and heard from 86-plus witnesses. In this Congress, the committee on S. 652 has held 3 days of hearings on telecommunications reform, heard from a number of witnesses representing a broad variety of interests.

S. 652 achieves a very, very important objective. Most important of all the objectives was the requirement of universal telephone service that would be available and affordable and continued to be outstanding. We have the finest communications services in the world.

This Senator went through the experience of airline deregulation. And truth is truth, and facts are facts. Do not come and tell me how airline deregulation is working. All of the airlines have just about gone broke. And I can tell you from paying just to go from Charleston to Washington and Washington to Charleston and back, it is just an inordinate 600 and some odd dollars. What has happened is 85 percent of America is subsidizing some 15 percent for the long haul. They talk about market forces, market forces. We had a good arrangement on the regulated airline service, and we have come full circle now with regulating foreign airlines and KLM taking over Northwest, British Air coming in on USAir, and all the rest being saved while we proudly stand up as politicians blowing hot and hard how wonderful airline deregulation is working. That is hooey.

I wanted to make sure that we did not fall in and mess up in this particular one with the wonderful telecommunications service that we have had. This bill promotes competition in the telecommunications market and restores regulatory authority over the industry to the Federal Communications Commission. That administrative entity has also been outstanding in their rendering of decisions and moving forward as best they could with the technological developments. But the competition of the communications and regular telephonic service and long distance evolved into a heck of a monopoly that we could not deregulate. I was on the teams that worked all during the 1970's and the early 1980's. Finally, the Department of Justice had to bust it up. We found out that they were so strong politically and financially that they could cancel out any and everybody. Senator DOLE on the majority side, this Senator on the minority side, all during the 1980's tried to get it back to the FCC, and we were blocked. This Senate passed the manufacturing bill to allow the Bell companies to get into manufacturing, passed by a vote of 74, bipartisan, and it was blocked over on the House side.

So the difficulty has really been in trying to get it from Judge Greene back into the administrative body where the people's decisions and policies are made by the Congress, administered by the Federal Communications Commission, but blocked by the industry itself time and time again.

Let me also mention Judge Greene who has done an outstanding job. I want to make note that it was just announced that Judge Greene will enter senior status this August. I just could not give him enough kudos in the way he has handled this, almost a one-man administrative responsibility for over 10 years now in his deliberate approach to the needs of the public by maintaining at the same time universal service.

The basic thrust of this bill is clear. Competition is the best regulator of the marketplace. But until that competition exists, until the markets are opened, monopoly-provided services must not be able to exploit the monopoly power to the consumers' disadvantage. Competitors are ready and willing to enter the new markets as soon as they are opened. Competition is spurred by S. 652's provisions, specifying criteria for entry into the various markets.

For example, on a broad scale, cable companies will provide telephone service; telephone companies will offer video services, as pointed out by our distinguished chairman; and telephone companies will, in addition, provide to the consumers the continued universal service; the consumers will be able to purchase local telephone service from several competitors; electric utility companies will offer telecommunications services; the regional Bell operating companies will engage in manufacturing activities. All of these participants will foster competition with each other and create jobs along the way. Of course, long distance will enter the local exchange, and as the local exchange is opened, the regional Bell operating companies will enter into long

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distance. So we are really moving very expeditiously into the competitive market.

We should not attempt to micromanage the marketplace. Rather, we must set the rules in a way that neutralizes any party's inherent market power so that robust and fair competition can ensue. This is Congress' responsibility.

So this bill transfers jurisdiction over the modified final judgment from the courts to the Federal Communications Commission. Judge Greene, as I mentioned, has been overseeing that modified final judgment in an outstanding fashion. He was doing yeoman's work in attempting to ensure that monopolies do not abuse that market power. Now it is time for the Congress to reassert its responsibilities in this area.

Let me address some of the specific areas of importance. The need to protect advanced universal service is one fundamental concern of the committee in reporting S. 652. Universal service must be guaranteed, the world's best telephone system must continue to grow and develop, and we must ensure the widest availability of telephone service. Under this bill, all telecommunications carriers must contribute to their universal service fund. A Federal-State joint board will define universal service. This definition will evolve. It is a flexible requirement—a requirement, I should say rather, of flexibility so that the definition will evolve over time as technologies change so that consumers have access to the best possible services.

Special provisions in the legislation address universal service in rural areas to guarantee that harm to universal service is avoided there. One of the most contentious issues in this whole discussion has been when the regional Bell operating companies should be allowed to enter the long distance market.

Under section VII(C) of the modified final judgment consented to buy all the RBOC's and attested to in the hearings that we have had on this bill, as a group the test has been whether the RBOC's seeking entry into long distance could have a substantial possibility of impeding competition in that long distance market which it seeks to enter.

Last year, S. 1822 contained a requirement that the Department of Justice utilize this test in considering any application for the regional Bell operating companies' entry into long distance. In addition, the FCC was to utilize a public interest test for considering any such application. This was an approach to which the regional Bell operating companies agreed during the last Congress. This year, earlier draft provisions, however, set a date certain for entry by the RBOC's into the long distance market.

So after all the hearings and much discussion and negotiation, we determined that this self-defeating approach of a calendar ruling there would be no consideration of the competitive circumstances in the marketplace.

So S. 652 specifies that the FCC may approve any application to provide long distance if it finds, one, that the RBOC has fully implemented the unbundling features specified in the competitive checklist in the new section 255 of the Federal Communications Act of 1934; two, the RBOC will provide long distance using a separate subsidiary; and, three, application is consistent with the public interest, convenience, and necessity.

Mr. President, when I mentioned that section 255 is a new section under the Communications Act, I should say of 1934. It is good to point out that we have used the original Communications Act of 1934, as amended, for the simple reason that over the 60 plus years we now have a complex body of law, special rulings, interpretations of legal expressions and requirements by the courts. We are now tasked with the job of trying to bring competition to a regulatory structure based on a monopoly and open up the marketplace.

I remember in an earlier debate we had this year it was brought out that 60,000 lawyers are registered to practice before the District of Columbia bar, 59,000 of whom are probably members of the federal communications bar. That is why you will see every effort to change every little word and analyze every phrase. So we have really had a difficult task trying to break up the monopoly of the local telephone companies and to open the market so competition could ensue and yet it is the monopoly that has provided us with the universal service we all enjoy. We do not want to penalize or jeopardize in any sense the regional Bell operating companies that have been doing an outstanding job because there is no shortcut there. If you penalize them and put them into an uncompetitive position, then, of course, your rates are bound to go up.

So S. 652 is a balanced bill. The public interest test is fundamental to my support for the legislation. In making this public interest evaluation, the FCC is instructed to consult with the Department of Justice which may furnish the Federal Communications Commission with advice on the application using whatever standard it finds appropriate, including antitrust analysis under the Clayton and Sherman Acts and also section VIII(C) under the Modified Final Judgment.

Mr. President, this is great leap from the actual and demonstrable competition test originally proposed in S. 1822 from the last Congress. While I would prefer a more active Department of Justice role, and an explicit reference in the statute to the section VIII(C) test, I support the provisions of S. 652 because the FCC will have the benefit of the Department of Justice views prior to making any decision. The Department of Justice may well decide to base its decision on whether there is a substantial possibility that the regional Bell operating company will impede competition through use of its monopoly power or any other standard under the antitrust law. The report accompanying this bill makes it clear.

I might emphasize at this particular point the leadership that already this year has been given by the antitrust division, by the Department of Justice and the outstanding director, Assistant Attorney General, Ms. Anne Bingaman. She has obtained what we as politicians have been trying over 4 years to get together, and that is about a month ago on national TV there appeared the regional Bell operating company, Ameritech, the long distance company AT&T, the Department of Justice and the Consumer Federation of America, all four entities important to the entire process agreeing on the steps of unbundling, dialing parity, access, interconnection, all of these things all ironed out that in the technological world of communications we have debated back and forth over these many years. They have gotten together. They are going into Grand Rapids and Chicago, and, of course, the RBOC is getting into long distance.

And so while we politicians on the floor of the Senate will be debating in the next few days, no doubt it should be mentioned that the Department of Justice, under the leadership of Ms. Anne Bingaman, has already gotten the parties together. I am convinced that their consent decree now before Judge Greene will be affirmed.

S. 652 requires that an RBOC must provide long distance using a subsidiary separate from itself to avoid any cross-subsidization between local and long-distance rates. These and other safeguards in the bill should prevent against RBOC abuses in the long-distance market.

The committee-approved bill also includes some deregulation rates for cable television. The Democratic proposal at the beginning of the year did not suggest any such deregulation because from 1986 to 1992 cable rates had risen three times faster than the rate of inflation, so that the Congress back in 1992 overwhelmingly imposed rate regulation and new service standards on the cable operators.

We passed the 1992 Cable Act largely in response to the complaints from consumers that rates had soared beyond reason and service was poor. The bill actually became law with the bipartisan vote to override President Bush's veto.

Now, since the 1992 act was adopted, the cable industry has experienced significant growth. Subscribership is up, stock values in cable companies have risen dramatically, and debt financing by the cable industry rose in 1994 by almost $4 billion over the 1993 levels. But the Consumer Federation of America estimates that $3 billion has been saved for American consumers through the rate regulation that has been put into

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place. Yet some in the industry maintain that cable regulation produces uncertainty in financial markets and that cable operators will need to be able to respond to new competitors through additional revenues.

S. 652, therefore, changes the standard of regulation for the upper tiers of cable programming. It makes no changes in the regulation of the basic tier. Under the bill, a rate for the upper tier cannot be found to be unreasonable unless it substantially exceeds the national average rate for comparable cable programming.

This standard will allow cable operators greater regulatory flexibility for the upper tiers. The bill retains the FCC's authority to regulate excessive rates charged to the upper tiers.

In addition, the bill changes the definition of effective competition in the 1992 act to allow cable rates to be deregulated as soon as the telephone company begins to offer competing cable services in the franchise area. Once consumers have a choice among entities offering cable service, the need for regulation no longer exists.

S. 652 increases the ability of any entity including television networks to own more broadcast stations. Today, the FCC rules allow an entity to own broadcast stations that reach no more than 25 percent of the Nation's population. This limit was imposed out of concern that broadcast stations would be owned by a few individuals, and that concentration would not be beneficial to our local communities or yield the benefits that result from the expression of diverse points of view. S. 652 would increase that level to 35 percent.

Any modification in the national ownership cap is important because of localism concerns. Local television stations provide vitally important services in our communities. Because local programming informs our citizens about natural disasters, brings news of local events, and provides other community-building benefits, we cannot afford to undermine this valuable local resource.

Earlier drafts of the legislation would have eliminated many of the FCC regulatory limits on the broadcast industry. By contrast, S. 1822, as approved by the Commerce Committee last year, required the FCC to conduct a proceeding to review the desirability of changing these rules. I think the bill with 35 percent permeation is an acceptable compromise between those positions.

In addition, the bill repeals a prohibition on cable broadcast crossownership. S. 652 makes no change in the other broadcast ownership rules such as the duopoly rule or the one-in-the-marketplace rule. Rather, the FCC is instructed to review these rules every 2 years, and they can change it upon review.

This comprehensive bill strikes a balance between competition and regulation. New markets will be open, competitors will begin to offer services, consumers will be better served by having choices among providers and services.

I urge my colleagues to support the bill. I myself would have gone further in several areas covered by the legislation, but I have seen that any one sector of the telecommunications industry can stop this bill and checkmate the others, as I have stated before. Telecommunications reform is too important to let this opportunity go by.

Finally, Mr. President, it should be emphasized that here is one industry that suffered from deregulation. You cannot approach this problem in S. 652 as we bring it into the technological age without thinking back to 1912 when David Sarnoff was a clerk in Wanamaker's store and the sinking of the Titanic was occurring. They raced him up to the roof of Wanamaker's. He set up his wireless, made radio contact with the sinking ship and contacted rescue vessels, directing not only some of the rescue effort but the names of survivors, working almost 72 hours around the clock.

Everyone then got a wireless. There was not any regulation. And by 1924, when Herbert Hoover was the Secretary of Commerce, all of those wireless operators came rushing to the Secretary of Commerce and said, "For heaven's sake, we have nothing but jamming." The radio broadcasters, who have a tremendous interest in this S. 652, went begging to be regulated. So they were in the act of 1927 and brought into that age then with the 1934 act.

So those who are now talking about getting rid of the Government and, incidentally, by the way, we can save money by getting rid of the FCC, ought to stop, look and listen. They have to have a sense of history. We can get rid of total deregulation, jamming each other and all that sort of thing, but, after all, the public airways belong to the public, on the one hand, and they need a modicum of administration, on the other hand, for this finest, finest of communications systems in the entire world.

Let us not talk about the FCC costing money. They are the entity this year that already by auction has brought in $7 billion to the Federal Government. If you can find any other bureau, commission, administration, department of Government or otherwise that has reaped 7 billion bucks, I would like to find it.

We have the money to administer all of these things and bring it into a deregulatory, competitive position, but it has to be done in an orderly fashion, and everyone connected and working on this understands that. So let us not start talking about getting rid of the FCC and act like you are doing something sensible.

I thank my colleagues and yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, it may well be that the two distinguished southern managers of this bill, the Senators from South Dakota and South Carolina, may never have imagined that this day would come. This is probably the first occasion on which a thorough philosophical change in direction in communications law has been debated on the floor of the U.S. Senate since the Communications Act of 1934, some 61 years ago.

In 1934, of course, communications was via old-fashioned dial or operator-assisted telephone through radio stations and through Western Union telegrams. The technological situation of the time called for monopoly communications systems and the necessity of regulation of those systems in the public interest to see that prices were not too high.

Today, of course, technology is so totally and completely different that an entirely different regime is needed. Perhaps the greatest difficulty in bringing this day on which we start this debate to pass has been the fact that in each long set of hearings in the Senate Commerce Committee over a year or more, each tentative set of conclusions on the part of these two Senators, and others, by the time those conclusions had been reached, the technology has gone beyond those conclusions.

So there seems to be a broad agreement across both parties and many political philosophies that there should be a large degree of deregulation as a part of any bill, based on the proposition that we cannot tell how much the technology will change in the next 6 months, much less the next 10 years, and that we should accommodate it without constantly trying to regulate it through some form of statutory language. That is the philosophy of this bill, a philosophy of competition rather than of regulated monopoly.

It has been a difficult process and it is likely to be a difficult process for the next 3 or 4 days.

So rather than repeat anything that the two leaders in this debate have said, I would simply like to say from the perspective of this Senator, as a member of the Commerce Committee, there have been three guiding principles in dealing with the many conflicts among groups who would like to provide communication services, and those three guiding principles are, of course, deregulation, competition and the interests of the consumers, the users of these various services.

Mr. President, there are a number of areas covered by this bill in which those three interests lead to the same conclusion: Deregulation will promote competition, competition will promote the consumer interest.

Those parts of the bill probably will not be the subject of much discussion during the course of this debate. They have been worked out. But the three considerations are at least slightly different and move in slightly different

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directions. Because of the nature of the communications industry, which still includes huge regulated monopolies, a total and complete deregulation at least carries with it the risk not of competition but of an unregulated monopoly substituting itself for a regulated monopoly. So there must be a degree of caution in the speed and the completeness of any kind of deregulation.

Almost always, it seems to me, Mr. President, that competition is in the consumer interest, though ironically many of the so-called organized consumer groups have little faith in competition and in the free market and believe in various forms of state socialism and want in many respects more regulation. I believe, Mr. President, that those so-called consumer representatives rarely represent the actual consumer interest.

So as we go through this debate over particular proposed amendments during the course of the next week, it seems to me we all have to attempt to judge them on the basis of those three principles: Are they deregulatory in nature in a constructive fashion that is consistent with the march of new technologies? Do they promote competition? And are they in the consumer interest?

Mr. President, there is only one other major point that I want to make at this time, and that is that of all of the proposals with which I have had to deal in my career in the Senate, this is perhaps the most important for the future of our economy. Perhaps as much as 20 percent of our economy is connected with communications in some respect or another. And, of course, the lobbying, the attempt to influence all of us on the part of people who are in the communications business or wish to be in the communications business is fierce, is overwhelming in nature. At the same time, the actual consumers of these goods, our constituents, who are not in the business, are almost totally silent.

I have hardly gotten a handful of telephone calls or letters from ordinary citizens about this bill. It is too big. It is too complicated. It is about the future. It is very difficult to come up with an intelligent opinion off the top of one's head on some of the particular controversial areas in it. And so it is up to us to weigh the consumer interest as we work our way through this legislation, along with those features that will lead to competition, generally speaking, through deregulation.

My observation is that the large companies and groups which are already in the communications business do sincerely favor competition. But, generally speaking, they would like to create a competitive atmosphere in which they are at least even, and perhaps have a little bit of an advantage. And so the mythical even playing field is something to which all give lipservice but each defines in a different fashion.

Now, the new companies, the entrepreneurs, those who are just beginning in the field, or wish to get in the field, simply want it opened up. They want to be able to compete, where today they cannot. Few of them are large enough to demand some kind of special privileges or another. And we need to encourage both.

We need to encourage the continued investment in this new technology on the part of those companies that have been in the business literally forever. We cannot lose their expertise and that tremendous investment. We need to see to it that those large companies are able to compete against one another in the consumer interest. At the same time, we also need to see to it that the niche companies, the new companies, the people with bright new ideas, are able to get into this business and if they are tremendously successful, become large companies as well.

So, Mr. President, we search for deregulation, we search for competition, and we search for the consumer interests. I think we all do so sincerely, determined that we need to make major changes, and perhaps with a degree of humility, that we do not know what is going to happen tomorrow, and we wish to craft an outline which will allow tomorrow to take place without our having crushed it by unanticipated consequences to the actions we take here.

I want to close by congratulating both of my colleagues, the Senator from South Dakota and also the Senator from South Carolina, who has spent a major part of his career in this field and who now has, I think, the enviable task of attempting to manage this legislation wisely and successfully to a conclusion that will benefit all of the American people.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. First, I thank and congratulate the chairman and the ranking member of the committee, Senator PRESSLER and Senator HOLLINGS. We have been promising week after week that this bill was coming to the floor. I do not believe it now that it is on the floor and pending. I have every expectation, with their management skills, that we can probably finish this bill by Friday noon. If that is the case, we probably would not have any votes on Monday—if that is an incentive for anybody. We might have debate on some other bill but no votes on Monday. So if we can consider those incentive programs as we go along, it will be helpful. But it is a very important piece of legislation. It is probably the most important bill we have considered all year, no doubt about it. It will create jobs, opportunity, all of the things we have talked about. I have listened to both managers' opening statements.

Mr. President, some may consider S. 652 to be the end of a long, long, process. And no doubt about it, telecommunications deregulation legislation has been an idea debated around here for nearly a decade. In fact, I first introduced telecommunications deregulation legislation in 1986.

But rather than seeing this bill as an end to the process, I see it as a beginning: A beginning of a new era of leadership for the telecommunications industry and for America.

And one person who deserves a good deal of credit for making this new era a reality is Senator PRESSLER. As all Members know, this is a tough, complex, and often contentious issue. And Senator PRESSLER and Senator HOLLINGS have done an outstanding job at bringing the competing interests together—or as close together as possible.

Senator HOLLINGS was the chairman and came very close last year to getting a bill. This year, under the chairmanship of Senator PRESSLER, we are on the floor with the bill. We have not passed it yet, but my understanding is that there is a lot of bipartisan support. It is not a partisan measure, a Democrat or Republican partisan fight. So we ought to be able to complete it quickly, because they have done an outstanding job of bringing the competing interests as close together as possible.

Mr. President, leadership in telecommunications, whether it was inventing the telegraph or the microchip, has been an American tradition. And we will continue that tradition with passage of this bill.

As I have said before, telecom reform will be the real jobs stimulus package of this decade.

Building the necessary infrastructure will require thousands of private sector jobs. And that is just the beginning. Millions more will be created because information will become more accessible. Jobs that will make America more efficient, more productive, and ultimately more powerful.

Looking back on Congress' track record, a casual observer would think that we have a grudge against the communications industry. Fortunately, this image is changing and Republicans are glad to see that traditional "proregulators" are finally coming around to our competitive way of thinking.

We must develop a flexible policy that will accommodate the explosion of new technology. That policy, of course, is promoting competition. It is irresponsible to think we can do anything more.

No one knows the benefits of free and open competition better than the computer and semi-conductor industries. Just take a look at a few of the players in the U.S. communications industry.

Last year, the computer industry earned revenues close to $360 billion. Two things are amazing about that figure. First, it is twice the telephone industry's revenues. And second, revenues from the personal computer industry, which for all intents and purposes was non-existent in 1980, account for almost half of that figure. In other words, revenues in personal computers

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have grown as much in 14 years as the entire telephone industry did in 100.

It is not too difficult to figure out that the computer industry benefitted from fierce competition and minimal government regulation. Phone companies did not.

Cable TV also exploded after it was de-regulated in 1984. At that time, its revenues were $7.8 billion and it employed 67,381 persons. Fast-forward to 1992. Revenues tripled and employment numbers jumped to 108,280. While these numbers are also good, I would suggest that the cable TV industry would have done much better if it had faced competition. More importantly, I would also suggest that there would not have been the abuses which prompted Congress to enact re-regulation in 1992.

My point is simple: competition, not regulation, has the best record for creating new jobs, spurring new innovation, and creating new wealth.

Mr. President, America is at the cross roads, and Congress must make a choice. A touch choice, as we all know. But I believe that if we ask the right question, we will get the right Answer. As I see it, we must ask ourselves, "who will decide the communications industry's future."

I say we allow the real technical experts to decide. And I am not talking about government bureaucrats. Instead, we should look to the experts in the field, the entrepreneurs, the engineers, and the innovators. It seems to me that they will do a far better job for our country if big government leaves them alone.

I, for one, cannot allow government to become the biggest player in the telecommunications industry. Too much is at stake. It is nonsense to gamble away millions of new jobs. It is nonsense to gamble away America's ability to compete, and win, around the world. And it is nonsense to gamble away the spoils that the information age will bring.

To get there, I have worked with the committee to develop a comprehensive deregulatory amendment that touches all sectors of the communications industry. It is my understanding that the managers are not quite ready to accept it now.

I have a list describing each provision that I will insert in the RECORD at the end of my remarks, but for now, I will just highlight a few of the provisions.

First, deregulate small cable TV systems. This has bipartisan support. Although views differ on deregulating the entire cable TV industry, most of us can agree that rural and small systems need rate relief in order to survive. This provision gets it done.

Second, force the Federal Communications Commission to eliminate outdated regulations, and do so in a timely manner. Currently, there is no guarantee that the Commission will ever act on requests that it forbear on regulations. Under this amendment, the Commission must respond within 90-days—60 more can be added if the issue requires additional scrutiny. Most importantly, it must provide a written determination to justify its actions.

Third, eliminate the number of TV stations that any one entity can own. Currently, the limit is capped at 12. This amendment removes that cap. I want to point out, however, that this amendment does not, I repeat, does not increase the percentage of national viewership beyond the 35 percent that is included in the chairman's mark.

The amendment also eliminates the number of radio stations one can own, unless the Commission finds that issuing or transferring a license will harm competition.

The measure also privatizes or eliminates a number of FCC functions. The Commission deserves credit for making these suggestions that comprise this provision. In other words they came from the FCC.

I could go on at length, but I believe I have given my colleagues a flavor of what this amendment is about. I know the managers and members of their staffs are well acquainted with it.

This amendment does represent the hard work of many Members, obviously Members on both sides of the aisle. Senator BURNS has been working on this for a couple years, Senator CRAIG, Senator PACKWOOD, Senator MCCAIN on our side, just to name a few, and, of course, Senator PRESSLER and Senator HOLLINGS.

It does not matter how long we work on it, if we cannot get it accepted, it does not make any difference. We hope at the appropriate time that it can be accepted. I hope that we will continue on the procompetitive, deregulatory course that we have taken in a bipartisan way, and in only that way will we ensure that today is beginning a new renaissance for America.

Mr. President, I ask that a summary of the deregulation package be printed in the RECORD following my statement.

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

SUMMARY OF DEREGULATION PACKAGE

Transfers Judge Green's MFJ (consent decree) to the FCC.

Eliminates GTE's consent decree.

Adopts definition to restrict expansion of universal service so that it does not spiral out of control.

Greater deregulation for small cable TV. As the bill stands now, small cable can't take advantage of any rate deregulation because of the way their systems are set-up. To take care of them, the deregulatory amendment would completely eliminate rate regulation for cable operators who serve less than 35,000 in one franchise area, and do not serve more than 1% of all subscribers nationwide (650,000 subscribers). Obviously, this is a pretty broad definition of a "small" cable company.

Increase the Commission's ability to forbear on regulation.

Establish a petition driven process to force the commission to forbear on regulation within a 90-day period. If the Commission does not act, or extend period by an additional 60 days, the petition shall be deemed granted. If petition is rejected, it must be with a written explanation. In short, it will force the commission to justify any and all of its regulations.

Eliminate the number of TV stations any one entity can own.

Force the Commission to change its rules so that any entity can reach up to 35% of Americans with TV broadcast systems (the current cap is at 25%).

Eliminate the number of radio stations any one entity can own, unless it would harm competition.

Have FCC consider eliminating rate regulation in long distance market.

Regulatory relief. Speed up FCC action for phone companies by making any revised charge that reduces rates effective 7 days after it is filed with commission. Rate increases will be effective 15 days after submission. To block such changes, FCC must justify its actions.

Eliminate arcane requirement that phone companies must File any line extension with Commission. As it stands now, companies have to get the commission to approve any line extension which often takes more than a year.

Phone companies will only have to file cost allocation manuals on a yearly basis.

Eliminate the following FCC functions: Repeal setting of Depreciation rates; Have Commission subcontract out its audit functions; Simplify coordination between Feds and States; Privatize Ship radio inspections; Permit Commission to waive construction permits for broadcast stations as long as license application is submitted 10 days after construction is completed.

Also terminate broadcast licenses if a station is silent for more that 12 consecutive months. Subcontract out testing and certification of equipment. Permit operation of domestic ship and aircraft radios without license. Eliminate FCC jurisdiction over government owned radio stations. Eliminate burdensome paperwork involved in Amateur Radio examination. Streamline non-broadcast radio licenses renewals.

AMENDMENT NO. 1255

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 1255.

Mr. DOLE. Mr. President, I ask unanimous consent further reading be dispensed with.

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

The amendment is as follows:

(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.

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On page 40, line 9, strike "to enable them" and insert "which are determined by the Commission to be essential in order for Americans".

On page 40, beginning on line 11, strike "Nation. At a minimum, universal service shall include any telecommunications services that" and insert "Nation, and which".

On page 70, between lines 21 and 22, insert the following:

(b) 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 does not, directly or through an affiliate, own or control a daily newspaper or a tier 1 local exchange carrier.".

On page 70, line 22, strike "(b)" and insert "(c)".

On page 71, line 3, strike "(c)" and insert "(d)".

On page 79, strike lines 7 through 11 and insert the following:

(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 of 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 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.

On page 79, line 12, strike "(2)" and insert "(3)".

On page 79, line 18, strike "(3)" and insert "(4)".

On page 79, line 21, strike "(4)" and insert "(5)".

On page 79, line 22, strike "modification required by paragraph (1)" and insert "modifications required by paragraphs (1) and (2)".

On page 116, between lines 2 and 3, insert the following:

(b) DOMINANT INTEREXCHANGE CARRIER.—The Commission, within 270 days after the date of enactment of this Act, shall complete a proceeding to consider modifying its rules for determining which carriers shall be classified as "dominant carriers" and to consider excluding all interexchange telecommunications carriers from some or all of the requirements associated with such classification to the extent that such carriers provide interexchange telecommunications service.

On page 116, line 3, strike "(b)" and insert "(c)".

On page 117, line 1, strike "(c)" and insert "(d)".

On page 117, line 22, strike "REGULATIONS." and insert "REGULATIONS; ELIMINATION OF UNNECESSARY REGULATIONS AND FUNCTIONS."

On page 117, line 23, insert "(a) BIENNIAL REVIEW.—" before "Part".

On page 118, between lines 20 and 21, insert the following:

(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) SIMPLICATION 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 and 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.

On page 117, between lines 21 and 22, insert the following:

(d) 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)

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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 forbear from applying any of the requirements to which reference is made in paragraph (1) under any other provision of this Act or other law.

On page 118, line 20, strike the closing quotation marks and the second period.

On page 118, between lines 20 and 21, insert the following:

"(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.".

On page 119, line 4, strike "may" and insert "shall".

On page 120, between lines 3 and 4, insert the following:

"(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.

On page 120, line 4, strike "(c)" and insert "(d)".

Mr. DOLE. Mr. President, I ask unanimous consent that the amendment be laid aside.

Mr. KERREY. Reserving the right to object, Mr. President, I am not objecting to having it laid aside. I am here to inquire what the procedure is going to be. The Senator is offering an amendment and is not going do debate it here this evening? It will be laid aside?

I have not seen this copy. The Senator is not proposing it be accepted at this moment?

Mr. DOLE. I think the managers may be ready to accept it by tomorrow morning.

Mr. HOLLINGS. If the Senator will yield. That is correct. In fact, about 2 hours ago we had it worked out, but there is some further interest on our side that we have yet to clear. The distinguished minority leader has another amendment that he wanted to present at the same time, and I think we can work that out.

That is the idea, to temporarily lay it aside and move on.

Mr. KERREY. I will not object, but I will inform the manager of this bill that I will not give unanimous consent to this being accepted until I have read it and signed off on it.

Mr. DOLE. I have obviously no problem with that. In fact, I can give the Senator from Nebraska a summary of it, too. I thank my colleague.

The PRESIDING OFFICER. Without objection, the amendment is set aside.

Mr. PRESSLER. I thought we had this agreed to this afternoon, but I guess the minority leader has something he would like to add or change. But I would like to inquire of the majority leader if we cannot get agreement tonight.

Shall we make this one of the votes at 8:30 or 9 o'clock in the morning?

Mr. DOLE. If it is acceptable, I do not need a vote. I do not want to penalize anybody.

Mr. KERREY. Is the Senator asking to set a time for a vote?

Mr. DOLE. Not on this amendment. I will wait until the Senator from Nebraska indicates he has had a chance to look at it.

Mr. STEVENS. Mr. President, I do think that everyone should be aware that the bill we are considering is larger in its impact on the national economy than the health care reform measure we considered last year.

This bill, in a conservative way, will impact more than one-third of the economy of the United States.

It is a bill that is designed to transition from the 1934 Communications Act to a period sometime, hopefully, around the turn of the century when we will have deregulated telecommunications because of the competition that we this bill will instill and guarantee.

Now, the bill will put the communications policy of the United States back where it belongs, in the hands of the elected representatives and the President, and will take it out of the courts. By setting rules for entry into long distance by the Bell operating companies, I think we bring to a close an over-10-year policy-making period by the U.S. courts.

This bill will open the local telephone market to competition. It will bring competition and new services to all parts of the United States.

It is not a permanent piece of legislation, in my judgment. This is not a bill that will replace, totally, the 1934 act. It does, however, by deregulating the industry with appropriate safeguards, set the stages for a new era in the United States.

I want to call the attention of the Senate to a provision that is very meaningful to my area, the universal service provision. This is a concept that, through the existing interstate rate pool, has brought telephone service to all parts of this Nation, including remote villages in Alaska and throughout the Nation wherever you are.

The concept is preserved in this bill in a new manner. It opens up the local market to competition while still preserving the concept of universal service. It does so by taking advantage of new technologies which are intended to reduce the cost of all services, including universal service.

In fact, I find it interesting that the Congressional Budget Office has said that this bill will reduce the cost of universal service from the existing system by at least $3 billion over the next 5 years.

Now, tumbling technology, as I call it, makes terrestrial distances irrelevant. By using modern technologies, the people in Egiagik and Unalakleet and Shishmaref, places many people have never heard of, can be involved in stock markets in New York, explore the Library of Congress, and be connected with overseas sources of information. Allowing cable companies to provide phones and phone companies to provide cable, this bill will spur competition and reduce costs to the Nation.

There are so many new technologies coming along, Mr. President, it is mind-boggling. There are many provisions in this bill that are aimed at deregulating the industry so those new technologies may compete.

It is my hope that the Senate will recognize this bill for what it is. It is a credit, as the distinguished leader has said, to Senator PRESSLER, the chairman of our committee, and to Senator HOLLINGS, the former chairman of our committee. It is a bill of monstrous scope that has substantial bipartisan support.

Had we had a similar approach to the problems of health care reform in the last Congress, we would have had that problem at least partially solved.

To the credit of these two Senators, this is not a bill that attempts to solve all of the problems of the telecommunications industry for the future. It is a bill that opens the door to the future and, in my judgment, it is one that it is absolutely essential be passed.

I am told that George Gilder of the Discovery Institute in Seattle, whom I consider to be one of the real thinkers of this country, has told us that not passing this bill will cost the United States $2 trillion in lost opportunities in the next 5 years alone.

I happen to pay attention to Mr. Gilder because he wrote an article the

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other day which answered some remarks that I made about universal service. I do feel in the days ahead the thinking that this man is doing will have a great deal to do with guiding the Nation into that ultimate system that I foresee coming on after the turn of the century.

Just in terms of the broad band radio concept that is coming along and how it will replace substantial portions of telecommunications now carried by wire or fiber optic cable or through satellites, that concept alone is going to catch us by surprise if we do not know what is happening. But at least we know it will happen. We are not trying to regulate that by this bill. We are not trying to prevent it by this bill. We are opening the door so new competitive aspects will come into our communications policy in the United States.

This morning I introduced a bill that I said I would offer as an amendment to this bill if the opportunity presented itself. I have discussed it now with the two managers of the bill. I would like to offer now an amendment.

First let me describe what it is. It is an amendment that will expand the FCC's authority to use auctions to assign licenses for the use of radio spectrum. The members of our committee will know that for two Congresses I argued that we should implement auctions to replace the old lottery system that was giving windfall profits to many and denying others access to opportunities that would start new businesses.

Under the old system, the lotteries, there was no commitment to use this spectrum but it was held as sort of an item that other people might bid on when they were willing to pay enough money to the person who was lucky enough to win the lottery. The person who got the license had no intent to use it. Now, with a bidding process, competitive bidding, we have brought the use of the spectrum to the point where people who want it pay what is necessary to get its use.

The Congressional Budget Office, as I said before, has estimated that the amendment I offer will raise $4.5 billion in the next 5 years. That is necessary for a strange reason. The Congressional Budget Office also estimated that the universal service provisions in this bill will require private industry and private purchasers to pay $7.1 billion over the next 5 years into this system, which was the interstate rate pool and now will become the fund for the payment of the universal service provisions of this bill.

I remind the Senate that the universal service system contained in this bill would result in a reduction of $3 billion from what continuation of the existing system will cost in the next 5 years. But notwithstanding that this bill will reduce the costs of the existing system we know, in order to avoid a Budget Act point of order on technical grounds, must offset the finding of the Congressional Budget Office that this requirement of the private sector to pay $7.1 billion into the pool—less than before but they still must pay it in—that this private payment must be offset under our congressional budget process.

That sort of boggles my mind too, Mr. President, but it is a requirement and I respect the Budget Act concept. Therefore I offer this amendment. It will extend the auction authority until the year 2000. That is all that is necessary to comply with the Budget Act, 5 years. It will bring in a minimum estimate, as I said, of $4.5 billion.

We have already received, under the auction amendment that I offered 2 years ago, almost $10 billion. It was new money, the kind of money that was never received by the Government before.

Under my amendment tonight, the FCC would have the authority to use spectrum auctions for all mutually exclusive applications for initial licenses or construction permits except for licenses for public safety radio services or for advanced television services, if the advanced television licenses are given to existing broadcast licensees as a replacement for their existing broadcast licenses.

This means that market mechanisms will help determine who can make the most efficient use of spectrum that will become available. I believe, again, that is the best way to deal with the future.

My amendment does not change the basic safeguards Congress put in the original spectrum auction legislation after I offered it several years ago. The expanded authority will apply only to new license applications. It will not apply to renewals. And the FCC may still not consider potential revenue in making the decision as to which type of service new spectrum should be used for. The revenue only becomes a factor in determining who gets the license to use the spectrum for any particular purpose.

The bill I introduced this morning, which is the same as this amendment, would also provide authority for Federal agencies to accept reimbursement from private parties for the cost of relocating to a new frequency. This will allow private industry to pay to move Government users off valuable frequencies by relocating the Government station to a less valuable frequency at no cost to the taxpayer, but an increase to the Treasury.

The amendment builds on what has been a very successful beginning. Since the existing spectrum auction authority was enacted in 1993, as I have said, the FCC has raised in excess of $9 billion, almost $10 billion now, for the Federal Treasury in just four auctions.

I do hope the Senate will support the amendment.

I ask unanimous consent that Senator DOLE's amendment be set aside for the time being and I be allowed to submit the amendment.

Mr. KERREY. Reserving the right to object.

The PRESIDING OFFICER (Mr. SANTORUM). Senator DOLE's amendment has been set aside. The Senator does have a right to offer an amendment.

Mr. KERREY. But I object.

The PRESIDING OFFICER. Is the Senator sending his amendment to the desk?

Mr. STEVENS. Did the Senator object to my request to set aside Senator DOLE's amendment?

The PRESIDING OFFICER. Senator DOLE's amendment has been set aside. There is no need for a unanimous-consent request.

AMENDMENT NO. 1256

(Purpose: To extend the authority of the Federal Communications Commission to use auctions for the allocation of radio spectrum frequencies for commercial use, to provide for private sector reimbursement of Federal governmental user costs to vacate commercially valuable spectrum, and for other purposes)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 1256.

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

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

The amendment is as follows:

At the appropriate place in the bill insert the following:

SEC. . 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—

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(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 three frequency bands (225–400 megahertz, 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.

Mr. STEVENS. Mr. President, I understand the Senator from South Dakota, the distinguished chairman, wishes to offer an amendment to this. I understand that suggestion came in after we originally drafted the amendment I have offered.

I yield to him at this time if he wants to offer an amendment to my amendment.

AMENDMENT NO. 1257 TO AMENDMENT NO. 1256

(Purpose: To provide for broadcast auxiliary spectrum relocation)

Mr. PRESSLER. Mr. President, I send a second-degree amendment to the amendment proposed by the Senator from Alaska to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 1257 to Amendment No. 1256.

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

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

The amendment is as follows:

At the end of the matter proposed to be inserted, insert the following:

(e) BOARDCAST AUXILIARY SPECTRUM RELOCATION.—

(1) ALLOCATION OF SPECTRUM FOR BROADCAST AUXILIARY USES.—Within one year after 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

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other similar services after the relocation of broadcast auxiliary licensees, and shall assign such licenses by competitive bidding.

Mr. PRESSLER. Mr. President, this second-degree amendment would add a new subsection to the underlying amendment. The new subsection would direct the FCC to allocate a 50 megahertz block of spectrum in the 4 gigahertz band for use by broadcast auxiliary services within 1 year of the enactment of the bill. In addition, this amendment would require that all broadcast auxiliary service licensees currently using a 50 megahertz block of spectrum in the 2 gigahertz band relocate their activities to the 4 gigahertz band within 7 years of the date this bill is enacted.

Finally, this amendment requires the FCC to auction the vacated spectrum in the 2 gigahertz band for use by commercial mobile services like cellular PCS within 5 years of the date of enactment.

By moving broadcast auxiliary service licensees, who do not pay the spectrum they are using, to another less valuable frequency, we will make available some very valuable spectrum for auction.

The Congressional Budget Office estimates that the auction of the 50 megahertz block of 2 gigahertz spectrum will bring at least $3.6 billion to the Federal Treasury.

Combined with the underlying amendment by the Senator from Alaska, this would raise more than $7.1 billion that is needed to offset the universal services provisions of this bill.

As the Senator from Alaska last pointed out—I commend him—this is a technical budget problem. The universal service provisions in this bill actually saves $3 billion over what would be paid if the existing system is left unchanged. However, with these amendments we meet the letter of the Budget Act.

I urge my colleagues to support the adoption of my amendment and the underlying amendment by the Senator from Alaska.

If it is appropriate, I would urge the adoption——

Mr. KERREY. Reserving the right to object, Mr. President.

Mr. PRESSLER. Mr. President, we could go into a quorum call or yield to our colleague from Montana who has been waiting to speak.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. I do not wish to speak on this amendment. Might I ask a point of order? Could it be set aside, and I proceed with my opening statement because no time was given for opening statements?

Mr. President, I will continue on as if speaking on this amendment.

This is sort of a special day to me because the former chairman of the full committee, Senator INOUYE, and I, when I first came here 6 years ago, had quite a time as we started I think to react to some of the things happening in the industry. We thought probably we were ahead of the curve in setting some kind of policy that would reflect the future. We thought we were ahead of the curve. Now we are behind the curve because technology as it is being developed in this area is far outpacing the regulatory environment in which it finds itself.

I can remember that day when we started to make amendments and the former chairman was very gracious that day. There were some people around, and I was just a freshman Senator offering some ideas that I thought were important in the telecommunications industry, understanding that there have been three inventions which have happened in my lifetime that have changed this world forever. It has changed it so that we cannot go back and do things the old way anymore. Those three inventions were the transistor, the silicon chip and the jet engine. Think what they have done to our life and our world. We can be anywhere else in the world, from Washington, DC, in 12 hours. We can talk and receive and interact both in video and in voice with anybody anywhere else in the world in 5 seconds. Sadly, we can destroy any other society on this Earth within 20 minutes. That is what these three inventions have done. They have tightened down our world where comparatively speaking it has been the size of this building in which we stand down to the size of a basketball. Now we are in a global society, a global economy, and we just cannot go back.

We will amend the Communications Act of 1934. That is some 60 years ago before any of these inventions were made. So basically what we are doing is we are driving digital, compressed digital, vehicles now within a law that regulates a horse-and-buggy type of situation. So we are here and starting out this great debate on changing an issue that will affect each and every one of us.

Make no mistake about it. This is a very, very important piece of legislation. I want to give kudos to our chairman and ranking member and their staffs because they have spent many hours in developing this bill with strong bipartisan support.

This bill was not drafted to satisfy business plans of major communications providers. It was drafted to benefit communications users, and communications users are solidly behind this bill for a number of reasons. Number one, they think it will bring down rates. So do I. They know it will bring advanced services. So do I. Perhaps more importantly, they know it will bring them more choices in telecommunications.

I recently saw a survey that illustrates why one important group—small American business owners—want and need communications reform. In Montana, over 98 percent of all businesses are classified as small businesses. The survey of 4,600 small business owners, which was sponsored by the National Federation of Independent Business, found that almost two-thirds of the small business owners surveyed want to be able to get long-distance telephone service from their local telephone company; and, 54 percent want to be able to choose local service from their long-distance company.

A full 86 percent of these small business owners want one-stop shopping for telecommunications services. Two-thirds of them want to be able to choose one provider that can give them both local and long-distance telephone service presented in either way.

Of course, lower rates are very important to business owners. We all look for a way to do things more economically, to make our business more profitable, to open more economic opportunities and job opportunities for those folks who live in our local neighborhoods. But breaking down outdated barriers to competition that are preventing some local telephone companies from providing long-distance service and long-distance companies from providing local service will also bring something else that small businesses want—that is called convenience. Small businesses do not have the time nor the resources to juggle separate vendors with separate marketing arrangements and separate billing for long-distance and local services, cable TV teleconferencing and, yes, even internet. They want to be able to choose one reliable and affordable company that can bring them all of these services; and when they have the telecommunications problem they want to be able to get on the phone and call one company that is qualified to handle every aspect of their communications needs and their networks.

At first, deregulation will create competition by allowing companies to cross over and compete in new business areas. If we do this right, however, very soon the gray lines that now separate telecommunications businesses will be gone. There will be seamless networks of vertically integrated communications providers competing head to head, tooth and nail to win the consumers' communications dollar. Those dollars are very big dollars. As a result, small businesses will be able to choose one company that can provide all their communications services—or they will be able to continue buying their telecommunications services piecemeal from multiple providers if they so choose. Either way, their decision will be based on who has the most affordable and most advanced services.

A full 92 percent of the small businesses owners questioned in this small business survey said that the telephone is central to their business. I do not doubt this. I know plenty of small businesses throughout my home state of Montana that rely heavily on the telephone to keep their business—mom and pop catalog shops that sell Montana buckskin jackets to the rest of the country or small cattle ranches that

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use cable TV and telecommunications to get future prices and negotiate with the slaughterhouses. And I do not know many small businesses today that function well without a personal computer and a fax machine.

How many people looked at a fax machine 10 years ago and said, "Who in the world would ever want to use one of those things?" I will bet you cannot walk into an office and many homes that do not have a fax machine today.

Technology is truly a thrilling thing as it propels us towards the next century. This bill will give small business that one-stop shopping that they want.

So we have a chance to bury outdated restrictions that were created for another era more than 60 years ago, restrictions that draw arbitrary lines between telecommunications providers that just do not make sense anymore. A lot of these anticompetitive, bureaucratic rules are only good to preserve market share for established providers. But protecting markets and maintaining the status quo is not going to help bring lower rates and advanced services to small businesses and consumers in Montana or anywhere else.

I fought very hard to ensure that small business participated in the information age. Whether it is small newspapers, small cable operators we have in Montana, or the small business of radio, these businesses are the backbone of communications in Montana.

I have sought to include nondiscrimination safeguards for small newspapers so that small information providers, especially in rural areas, will be able to purchase certain elements of a common carrier service offering on the smallest per unit basis that is technically feasible.

In addition, small cable operators, when freed from regulatory restraints in past legislation, will provide perhaps our best opportunity for telecommunications services in many of our Nation's rural areas.

They all the time talk about the information highway, that glass highway. Everybody says: When are you going to build it? I am not real sure that it is not already there.

It is already there. All we have to do is take off some restrictions so that it can be used. And there is a ramp on it and there is a ramp off of it. That is what we have to make sure of in this legislation.

Finally, I had deep concerns that one of the Nation's most important telecommunications small business industries, radio—I am familiar with radio—was being passed over in the effort to deregulate information providers. Radio ownership decisions need to be made by operators and investors, not the Federal Government. That is why we need to eliminate the remaining caps on national and local radio ownership.

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

At the local level, while the Federal Communications Commission several years ago modified its duopoly rules to permit limited combinations of stations in the same service, in the same market, there are still stringent limits on the ability of radio operators to grow in their markets. Further, FCC rules permit only very restricted or no combinations in smaller markets. These restrictions handcuff broadcasters and prevent them from providing the best possible service to listeners in all of our States.

So, Mr. President, this will be landmark legislation. It is legislation that we worked on ever since the first day we stepped into the Senate, because I happen to believe it is key to distance learning; it is the key to telemedicine; it is key to the future of those States that are remote and must be in contact with the rest of the world.

I appreciate the work of my good friend, the Senator from Alaska, and how he fights very hard because no one has cities and towns and villages that are more remote from the rest of the world than he has. And he understands that. Nobody understands that in this body more than he does. Now, we have some vastness in Montana but it does not compare in any way with the State of Alaska.

So as we move this debate forward, I hope that we will keep an open mind and really keep our eye on the ball because we have within our grasp the ability now to turn loose a giant in our economic world and provide services to people who have never had those services before.

Mr. President, I thank you and I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I understand momentarily my distinguished colleague from Nebraska wants to be heard on the amendment.

I would be prepared, at the conclusion of his remarks, to urge adoption of the Pressler amendment to the Stevens amendment and thereupon urge adoption of the Stevens amendment itself.

The Senator from Montana, who is a professional auctioneer, should understand that the daddy rabbit of auctioneering is the Senator from Alaska. He has already made $7 billion for us, and this amendment here is going to make up another $7 billion to get us by a budget point of order.

But let me, in saying that, acknowledge the hard work and leadership that the Senator from Montana has given. Since his very initiation on the Commerce Committee itself, he has been a leader; he has been interested; he has been contributing; and he has been a tremendous help in bringing this bill to the floor.

Mr. BURNS. If the Senator will yield, I thank the Senator for those kind words. And if I can possibly get the job of auctioneering the spectrum, I probably would vacate this chair which I am standing in front of.

Mr. HOLLINGS. I am going to lead on that one myself.

I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I have reviewed the amendment that the distinguished Senator from Alaska is offering, and as I understand it, what it does is it offsets an adverse score that this bill has received from the Congressional Budget Office. CBO has said this bill, in particular the universal service fund, is going to cost $7 billion over the next 5 years. Even though that is $3 billion less than what the current universal service fund does, there is the need to come up with $7 billion to avoid a budget point of order.

Now, I point out that under the budget resolution that was passed, when was that, 1½ weeks, 2 weeks ago, I believe that the Commerce Committee is going to be looking at having to reconcile $20 billion, $30 billion anyway, so you are going to have your hands full. The committee will be trying to come up with money to try to get within the recommendations of that budget resolution.

What this amendment does, it comes up with that $7.1 billion in the following fashion. It extends the spectrum actions that are scheduled to expire in 1998 for another 2 years, generating $4.5 billion according to CBO, and then it does something that is of particular interest, I believe, Mr. President—and many people would ordinarily oppose this but they are not—and that is the broadcasters have today assigned a 2-gigahertz spectrum in order to do auxiliary services. When they are going out in the field and they are doing some broadcasting out in the field, they use that 2-gigahertz spectrum.

This amendment would transfer that over a 7-year period from 2 gigahertz to 4 gigahertz, and then that 2-gigahertz spectrum would be auctioned off, generating an estimated $3.8 billion over the 5-year period.

Under normal circumstances, the National Association of Broadcasters would probably oppose this, but there are other things in this bill that they like, so they are not going to oppose it. I believe that the distinguished Senator from Alaska has made a good amendment that will in fact cover the $7.1 billion. And so, therefore, Mr. President, I will not object to this being accepted by unanimous consent.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. The Senator from Nebraska has demonstrated how he is a

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quick study. He is right. I would add one thing. I think the National Association of Broadcasters are going to want some additional spectrum beyond what is in this bill. We will work that out. But this has been scored, and we will work that out with them as we go forward to make sure that we understand the problem.

The simple problem is that this bill could not go forward unless we within its terms meet the scoring problem that the Senator from Nebraska has outlined.

Again, I point out we are not, however, by this bill spending money for universal service. But the budget process now makes us account for those moneys we must be paid by the private sector pursuant to a mandate, and since we are continuing a mandate, partially reducing it somewhat for universal service, it will cost less than the old universal service, we now must offset it.

I think it is responsible on the part of the Government to do that because there is always the possibility some future Congress might decide not to mandate that service but require the Government to pay it.

So we have, in effect, met the challenge of the Budget Act and, in doing so, we will actually, within this period, raise the additional moneys which I believe will be utilized in offsetting other budget problems as we go along. I do not believe that will be required by any action of the Congress in the future to charge the cost of universal service to the taxpayers.

Again, in my judgment, universal service is required so someone who comes up to my State who wants to call home literally can do it, or wants to bring up a computer and be attached to data services can make that intersection with the telecommunications system of our country.

I believe sincerely in universal services because without the universal services, the villages and towns of our rural areas would be still in probably the early part of the 20th if not the 19th century while we all go into the 21st. If they are not to be left in the position where they are without employment because they cannot attach themselves to this new telecommunications miracle of the United States, then I think they will be a burden on the rest of the country.

My friend George Gilder believes that in the future, the computer will replace, in effect, the networks because the networks will become, in effect, a gigantic computer network rather than just a television network. He tells us that what is going to happen is that we are going to have access through the computer industry to interconnect America's schools and colleges in truly a new worldwide web of glass and air.

If people want to think about it, there is no way we can afford to have this bill stopped by a budget point of order. That is the reason for our amendments. I join in urging adoption of these amendments.

Mr. PRESSLER. I urge the adoption of the amendment.

Mr. HOLLINGS. First, adoption of the Pressler amendment. If there is no further debate, I urge the adoption of the Pressler amendment.

VOTE ON AMENDMENT NO. 1257

The PRESIDING OFFICER. If there is no further debate, the question occurs on agreeing to the second-degree amendment No. 1257 offered by the Senator from South Dakota, Senator PRESSLER.

The amendment (No. 1257) was agreed to.

Mr. HOLLINGS. I urge adoption of the Stevens amendment, as amended by the Pressler amendment.

VOTE ON AMENDMENT NO. 1256

The PRESIDING OFFICER. If there is no further debate on the Stevens amendment No. 1256, as amended, the question is on agreeing to the amendment.

The amendment (No. 1256), as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I wish to thank the managers of the bill and those patient with us. I thought it was essential first to proceed with these amendments. Otherwise, we would be wasting our time if a budget point of order had the effect of pulling the bill down. I thank all concerned.

Mr. LOTT. Mr. President, I inquire what the parliamentary situation is? Are we back now to making opening statements at this point?

The PRESIDING OFFICER. Opening statements are appropriate at this time.

Mr. LOTT. Mr. President, I do want to rise in support of this legislation and make an opening statement. I would like to begin, as others have already done, by congratulating and commending the distinguished Senator from South Dakota for the hard work that he has put into this legislation. Of course, many members of the committee have been working on this legislation for several months. As the distinguished former chairman said earlier, way back in 1993 there was a lot of work going on on legislation that led to this moment.

But I know from personal experience and observation that the chairman of the Commerce, Science, and Transportation Committee, Senator PRESSLER, said immediately after the election in 1994 that this is an issue that is going to be given high priority, a great deal of his attention and we were going to work together to find solutions to the problems that had prevented its consideration last year and earlier. He made a commitment also to make it a bipartisan effort. So that is why we are here, because the chairman of the committee gave this such high priority and he has worked diligently to resolve problems that had been delaying this legislation.

I just want to acknowledge that fact at the very beginning of this debate. We have a long way to go, but I know now we have started down the path toward passing this legislation. I think it is a tremendous undertaking.

This is big legislation. It is important legislation. It involves a significant part of the overall economy in this country. It is going to create jobs. It is going to raise revenue because it is going to be such a dynamic explosive field. We are fixing to unleash the bounds that have been holding back this competition and advancements and this development. I think that no other segment of the economy in the next 10 years will be more dynamic and more exciting than that of telecommunications.

I also want to commend the distinguished Senator from South Carolina who is working at this very moment to resolve potential problems on this legislation, but Senator HOLLINGS worked so hard last year to bring about the passage of the bill through the Commerce, Science, and Transportation Committee. It did not come to consideration, partially because we just ran out of time.

But Senator HOLLINGS again this year has shown a commitment to get legislation developed that we can pass. He is the major reason we are going to have bipartisan legislation. We should have more legislation like this in the Senate. This is really the first bill of the year of major import that I believe will pass by an overwhelming bipartisan vote. So many of our issues have been considered in a partisan way, have been delayed with amendments. We have had filibusters; 50 amendments on the budget resolution. But in this case, we will have a chance to develop a bill that can be bipartisan and also a bill that will pass this body first instead of the other body of Congress. That is no insignificant accomplishment.

Senator INOUYE certainly has also been very interested in telecommunications. He worked on it last year and has been helpful this year.

The indomitable Senator STEVENS from Alaska is always there. When the debate gets hot and heavy, Senator STEVENS from Alaska will always rise to the occasion, as he has on this bill.

I have one other recognition before I get into my comments. I want to recognize the staff members who have done great work, hard work. It has been laborious, tedious, and they have solved so many problems through the great efforts of Paddy Link, and my own staff assistant Chip Pickering, clearly one of the brightest young men I have known in my life. We would not be here without their help.

Let me begin with a quote from testimony before the committee earlier. It begins with a quote from a Senator from Washington State, Senator Magnuson, who served with great distinction on the Commerce, Science, and

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Transportation Committee. He put it very aptly when he said in this particular area of legislation "each industry seeks a fair advantage over its rivals."

And then quoting the witness that was before the committee:

Each industry wants prompt relief so that it can enter the others' fields, but at the same time wants to avoid the pain of new competition in its own field by tactics that will delay that competition as long as possible. It is, therefore, up to the Congress to make the tough calls and, in effect, cut the Gordian knot.

That is what we are trying to do with this legislation, cut the Gordian knot that has held this dynamic field of the economy back now for several years.

As unbelievable as it sounds, the Communications Act of 1934 passed in the era of the Edsel, and it is still the current law of the land. That act now governs, in fact, constrains the most dynamic sector of the U.S. economy—telecommunications. Just as the Edsel became a symbol of all that is outdated, so is the 1934 Communications Act. That act is based on old technology and, consequently, on an outdated, rigid-monopoly-based-regulatory model. Boy, that sounds bad, but that is what we have today. It is time we changed that.

That system cannot accommodate the rapidly developing capabilities of new technologies and advanced networks. Instead, it acts to restrict competition, innovation, and investment.

Under that framework, markets are allocated, not won, by the sweat of competition. Currently monopolies, oligopolies or, at best, limited competition exist in local long distance and cable markets. More than 40 of our 50 States prohibit any entrepreneur or competitor from offering—even offering—local telephone service.

The 1984 consent decree which broke up AT&T continues to restrict the Bell operating companies from offering long distance or manufacturing.

We should have fixed that long ago. It would have created jobs and would have been positive for the economy.

Current law prohibits cable companies and telephone companies from competing in each other's markets. They are willing to do that. They want to do that. Why should we not let them do that?

Another 1934 law, the Public Utility Holding Company Act, PUHCA, prevents registered electric utilities from using their infrastructure and networks to offer telecommunication services to the 49 million American homes that they serve. All of these restrictions and regulations and allocations are truly the equivalent of an "Edsel" in the space and information age. In the case of utilities, they are already wired, hooked up. They have the capability to offer all kinds of services. Yet, they are told, no, you cannot do that. Why? There is no good explanation or justification for it—especially if we do this legislation in a way that is fair, open, and allows competition for all.

In stark contrast, the Telecommunications Competition and Deregulation Act of 1995—this bill—will move telecommunications into the 21st century and will finally leave the era of the Edsel behind. S. 652 will achieve this through full competition, open networks, and deregulation. That is what this bill is all about. That is what we say we we want. Senators stand up and say it day in and day out, about all kinds of situations. Well, in this bill, in this area, that is what we would do.

This bill provides a framework where entrepreneurs and free enterprise will make the information superhighway a reality, not just a conversation piece. As a result, tremendous benefits and applications will flow to our economy, to education, and health care. Industries will benefit from expanding markets and opportunities, and consumers will benefit from lower prices in their local, long distance, manufacturing, and cable services.

If one hears the protest of the various industries, it is not because the bill is too regulatory; no, just the opposite is true. It is because this bill removes all of the protection and market allocations that made their respective businesses safe and secure from the rigors of vigorous competition.

Under S. 652, all State and local barriers to local competition are removed upon enactment. An immediate process for removing line of business restrictions on the Bells is put in place. Moreover, the Bell companies are given the freedom to immediately compete out of region and provide a broad range of services and applications known as incidentals. These include lucrative markets in audio, video, cable, cellular, wireless, information services, and signaling.

The 1934 PUHCA is amended to allow registered electric utilities to join with all other utilities in providing telecommunication services, providing the consumer with smart homes, as well as smart highways.

Upon enactment, telephone and cable companies are allowed to compete. Current restrictions barring telephone cable entry are eliminated.

As the telephone/cable restriction is removed, S. 652, rightfully, loosens and removes cable regulation. For cable to convert and compete in the telephone area, it will be freed from the regulatory burdens that limit investment and capital capability, which has been a problem in recent years for the cable industry.

The restrictions placed on broadcasters, also during a bygone era, before cable, wireless cable, and advanced networks, would be reformed.

Ownership restrictions on broadcast TV are raised. An amendment removing restrictions on radio ownership will be adopted, and this is one we have worked hard on, and we have broad support now for. The FCC is granted the authority to allow broadcasters to move toward advanced, digital TV and to use excess spectrum, created by technological advance, for broad commercial purposes. Broadcast license procedures are reformed and streamlined.

S. 652, again, moving in from the communications policy of the past, goes from a protectionist policy to one appropriate for the global economy and technology of the 21st century. The bill promotes investment and growth by opening U.S. telecommunications markets on a fair and reciprocal basis.

In short, S. 652 constructs a framework where everybody can compete everywhere in everything. It limits the role of Government and increases the role of the market. It moves from the monopoly policies of the 1930s to the market policy of the future.

Toward that end, the removal of all barriers to and restrictions from competition is extremely important, and it is the primary objective, and I believe, the accomplishment of this legislation, thanks to the efforts of Chairman PRESSLER and the former chairman, Senator HOLLINGS of South Carolina.

In addressing the local and long distance issues, creating an open access and sound interconnection policy was the key objective, and it was not easy to come up with a solution that we could get most people to be comfortable with. It is critical to recognize the reason why all of these barriers, restrictions, and regulations exist in the first place—the so-called bottleneck. Opening the local network removes the bottleneck and ensures that all competitors will have equal and universal access to all consumers. Such access guarantees full and, I believe, fair competition.

The open access policy makes it possible for us to move to full, free-market competition in local and long distance services, avoid antitrust dangers, and dismantle old regulatory framework.

In fact, the Heritage Foundation makes the following statement and points to the open access interconnection policy:

Policymakers of a more conservative or free market orientation should not fear this open access policy. In fact, they should favor it for three reasons:

First, there is a rich, common law history that supports the open access philosophy.

They cite railroad and telegraph policy in America and common law tradition dating all the way back to the Roman Empire.

Second, open access works to eliminate any unfair competitive advantages accrued by companies that have benefited from Government-provided monopolies.

Third, open access removes the need for other regulations because the market becomes more competitive if everyone is on equal footing.

It is the only way to address economic deregulation where a bottleneck distribution system exists. It is the same policy which allows market forces, instead of regulation, to work in the case of long distance, railroads, and in the oil and natural gas pipeline distribution system.

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It is those examples of deregulation to which we should look, not to models of deregulation where no bottleneck exists, such as airline or trucking.

Open networks will provide small and mid-sized competitors the opportunity to flourish alongside telecommunication giants. In the long distance industry, similar requirements made it possible for over 400 small and medium-sized companies to develop and compete with AT&T over the past 10 years.

One of the better examples of this is a former high school basketball coach from a small town in Mississippi by the name of Bernie Ebbers. Opening requirements such as interconnection, equal access, and resale made it possible for this entrepreneur to build a small long distance company into the fourth largest in the country—LDDS. It is incredible what has been accomplished by this smalltown man by giving him an opportunity to get in there and compete, and boy did he ever and is he having an impact.

Having used the example of a small long distance entrepreneur, it is also important to point out what happened over the past 10 years to the former monopolist, AT&T. Although AT&T lost significant market share, it has seen the long distance market that it has greatly expand, and its revenues continue with strong, healthy growth.

AT&T's current revenues, with 60 percent share in the long distance market, as opposed to what was 100 percent, are now higher than in 1984. The same dynamic will occur in the local and other markets. Opportunities and markets will expand for all participants, as long as they are effective and efficient in the competitive environment.

It is this free market model which led me to conclude that all of the companies in my State and region and, in fact, in the country, will benefit from this legislation. I believe that markets and opportunities will expand for Bell South and LDDS, both of which are very important in my State of Mississippi, and other long distance companies, including electric utilities—Southern Company and Entergy in my part of the United States, and cable companies and broadcasters will have new opportunities to grow and expand.

A competitive model will create a bigger pie for all the providers, but more importantly, it is the consumers and the overall economy of my region, and I believe the whole country, that will benefit from this legislation.

For consumers and competitors, the open access requirements will do for telecommunications what the Interstate Highway System has done for the shipment of tangible goods and the movement of people and ensure that all competitors will have a way to deliver goods and services to anyone anywhere on the information superhighway.

Other requirements, such as number of portability and dialing parity are just common sense, procompetitive, and fair. A consumer does not want to have to dial more digits or access codes, and if required to do so, they will be less likely and probably not switch to the competitive provider. History shows that dialing parity in long distance services and 1-800 service greatly enhanced competition—or the lack of dialing parity serves as an effective barrier to that competition.

Likewise, a small business or residential consumer will not switch to the competitor if it meant the loss of his or her current number. They will not do it. The disruption to a business or individual or family is too great. That is why we had to deal with this issue in this legislation, although there was a lot of opposition to it.

Another key element of S. 652 is eliminating monopoly-based regulations and putting in place a mechanism to remove those regulations.

The bill eliminates rate-of-return regulation, a regulatory model which cannot logically exist in a competitive environment created by this legislation. States are encouraged to move to more flexible and competitive models.

S. 652 requires the FCC to forbear or to eliminate any past or current regulation requirement which would no longer make sense in this market base of competition. There will be a biannual regulatory review in this legislation that would recommend the elimination, modification, or other needed regulatory reform in the future.

Mr. President, in closing, I think it is time to adopt this communications policy for the future. It provides the right framework, it removes all barriers and restrictions to free market competition, innovation, and increased investment.

With the passage of this legislation our economy will grow a lot faster. We have had tremendous estimates of the kind of economic impact this legislation will have in the billions of dollars. More jobs will be created, applications in education and health care will expand more quickly, and the quality of life will improve in both rural and urban areas.

It is time to move beyond the culture of timidity where the companies and political leaders, regulators, and the courts resist needed reform, fear competition, and opt for the security and inferiority of the status quo.

We know that is what the election was about last year, change in the status quo. Boy, this bill will do that. It is time to trade in the Edsel and pass telecommunications legislation that will move us truly into the future.

I do want to note that I think that the center that holds this legislation together is the part that deals with the entry test. When the local Bell companies get into long distance and they get into the local unbundled market, we have a delicate balance there.

Are they totally happy? No, they would like a fair advantage in each case, but we have been able to cobble together this important balance, and I think it is one that we should support. I believe that we will be able to get this legislation through.

In conclusion, Mr. President, I ask unanimous consent to have printed in the RECORD information specifically citing the impact that this legislation can have in my home State of Mississippi.

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

WHAT DOES IT MEAN FOR MISSISSIPPI?

Mississippi is home to some of the Nation's new leaders in every segment of telecommunications.

Mississippi is prospering and benefitting from the contributions made by the largest and fastest growing regional company, Bell South.

LDDS, a Jackson, MS company, is the fourth largest long distance company in the Nation and an expanding international force. It is a true American success story.

M-TEL, another Jackson based company, is a dynamic entrepreneurial and leading national company in wireless paging service.

A dynamic culture of young entrepreneurs in cellular services is thriving throughout the State.

Parent companies to Mississippi Power and Mississippi Power and Light, Entergy and Southern Company, are pioneer companies promoting utility participation in telecommunications and advanced networks. They will pave the way for smart homes and highways in our State.

Cable companies of all sizes have deployed throughout Mississippi into virtually every small town.

Wireless cable services have exploded in both rural and urban areas of my State.

Mississippi, in cooperation with National Aeronautical and Space Administration, our leading educational institutions and South Central Bell, has deployed an advanced network which connects schools, universities, Federal facilities, super computers and national data bases. It is an educational and high tech model for the future and the Nation.

It is in my home State of Mississippi that I have seen and experienced the benefits of the communications revolution. I know what it means to the economy and quality of life for my State. It means the creation of high tech jobs, attracting new industry, and promoting and connecting Mississippi to the Nation's best educational opportunities.

As a Senator from a State which has become a leading telecommunications center, I come to this debate with the conviction that this legislation will serve Mississippi's, the Nation's, consumers' and competitors' best interest.

S. 652 promotes and accelerates the communication revolution by tearing down all barriers and restrictions preventing the benefits of free market competition.

Mississippi's economy, with telecommunications serving as a key catalyst, is growing and expanding. This legislation will further fuel its growth.

Under S. 652, Mississippi companies will have new opportunities and expanded markets as well as the challenges of competition. South central Bell will be able to expand into long distance, cable, manufacturing and other services.

LDDS, cable companies, Southern Company, Entergy, and numerous other companies will be able, for the first time, to begin competing for local service and combining local, long distance and cable services.

With S. 652, Mississippi's TV and radio broadcasters will see old restrictions removed or raised which have stifled growth and new business.

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Small cable operators in Mississippi who have struggled under the regulatory burden of the 1992 Cable Act, will see regulatory relief. Once again, Mississippi cable operators will be able to expand and deploy new services, regain financial stability and prepare to compete in new markets.

The competition among all participants will spur innovation, products, advanced networks and lower prices for the benefit of Mississippi's consumers and industries.

I want Mississippi to continue as a national leader in telecommunications. S. 652 will help achieve that objective.

For the Nation's future, S. 652 is one of the most significant pieces of economic legislation we will consider.

The President's Council of Economic Advisors estimates the telecommunications deregulation will create 1.4 million new jobs by the year 2003.

A study by the WEFA group, funded by the Bell Companies, projects 3.4 million jobs by the year 2005 and 0.5 percent greater annual economic growth over the next 10 years.

In addition, the committee heard testimony that the Pressler bill will lead to an additional $2 trillion in economic activity.

The communications sector, more than any other, will shape our future economy as well as our civic and community life. This bill is the right policy to maximize the benefits this sector of our economy can deliver.

I urge my colleagues to support this legislation. It is time for Congress, not the courts or bureaucracies, to establish the communications policy for the 21st century.

Mr. LOTT. Mr. President, I yield the floor.

Mr. PRESSLER. I thank the Senator from Mississippi for his terrific contribution. Chip Pickering has been in every step of the way. This would not be happening without your great leadership. I personally thank you very, very much.

Mr. President, I am sending to the desk a managers' amendment which I am cosponsoring with Senator HOLLINGS. This amendment, which has been cleared on both sides of the aisle, makes a number of technical and minor changes in the bill that have been worked out since the bill was reported by the Commerce Committee.

I ask unanimous consent that when adopted, the text be treated as original text for purposes of further amendment.

At this point I would like to send the managers' amendment to the desk.

Mr. LAUTENBERG. Mr. President, reserving the right to object, I commend the managers of the bill thus far. I know they are anxious to conclude a period of a lot of hard work and having struggled through many discussions and agreements to get this behind.

The reason that I raise the possibility of an objection is because, in the process of developing the managers' amendment, it was determined that a major research company based in New Jersey but doing work throughout this country, a company that has offered many innovative ideas in this period of new technology in communication, would be prohibited as a result of the present managers' statement from engaging in manufacture, even though it is the public declaration that they intend to be free of the regional Bell companies ownership. There they are, a company trying to engage in a competitive practice.

I had a discussion with two good friends, Senator HOLLINGS on the Democratic side and Senator PRESSLER on the Republican side, to see if there was any way that we could defer action on this tonight so we might discuss the competitive environment tomorrow morning.

Apparently, it is the belief of the managers that this bill has gone through so much labor and so many delicate steps that to further delay that might be injurious to the success, ultimately, of passing this bill.

So while I will not object, I would ask the managers whether or not I can have their support for a discussion of a proposal to enable the competitive character of the field to be expanded although it is lacking in the statement of the managers.

Mr. PRESSLER. I want to commend my friend from New Jersey, Senator LAUTENBERG. I know he is an experienced businessman, and I know there is some controversy about Bellcore. It is my belief that if Bellcore is sold and out there competing, it should be able to compete without restriction.

That is based on the information I have at this moment. I know there is a great controversy about manufacturing, because about 99 percent of manufacturing many new devises is research.

It seems to me that the Senator has raised a very good point. As I understand it, in the managers' amendment, we have taken this section out so we will be able to entertain a colloquy, or indeed an amendment.

I have begged several Senators to come tonight to offer amendments. We have all these strong feelings and we would like to get a vote on something tomorrow morning at 9 o'clock. As I gaze about, I do not see any amendments cropping forth. We welcome amendments.

I want to thank the Senator from New Jersey for raising this, because based on the information I have, I tend to agree with what I think his position is. I think he has raised a good point. If we could still adopt the managers' amendment, that is not, as I understand it, in there. We have taken out anything that there is controversy about.

Mr. HOLLINGS. Mr. President, first let me thank, as our chairman has very dutifully done, the distinguished presiding officer, the Senator from Mississippi, Senator LOTT, for the 2 years that we worked on S. 1822. The Senator has been an outstanding leader on S. 652 and his staff Chip Pickering has done exceptional bipartisan work. We never would have gotten this far, this balance that has been emphasized, had it not been for Senator LOTT's leadership. I want to thank my distinguished colleague from New Jersey for his attitude and approach to this. What happens, I have two lists in my hands. The list of possible amendments in my left hand are those amendments that are not agreed to, that we could not get consent on from the colleagues and the staffs on all sides. Objections have been heard. We had a list of those things that we thought were peripheral matters like "Replace subsidiary with affiliate where it appears," number 2, "The FCC may modify the modified final judgment with decrees once they are transferred to the FCC," and on down the list. These are things that both sides have agreed to.

Unfortunately, other distinguished Members of the Senate, and particularly on our committee of Commerce, have objected to the provision dealing with Bellcore. As I understand it, as the distinguished Senator from New Jersey points out—they are very competitive. Heavens knows, they produced the technology. If you had to measure in percentage of communications, I would say 90 percent of it has been produced in the Senator from New Jersey's home State there at Bellcore.

So I am disposed to help in any way I can the Senator from New Jersey. It is not within my power to do so because I have, like I say, in my left hand those amendments that are not agreed to. And the Bellcore amendment would have to be on that particular list.

They are not agreed to. There are at least three Senators on the committee who have so notified us. And if any Senator notified me right now on any of the other items in the managers' amendment I would object for them if they could not even be here. That would be my duty as a manager of the bill, because every Senator has to be respected.

I have the highest respect for the Senator from New Jersey. I will do everything possible I can to help him with his amendment.

Mr. LAUTENBERG. With that statement, if the Senator will yield, Mr. President, I have no objection to going forward.

The PRESIDING OFFICER. Without objection, the several unanimous consent requests are agreed to.

Mr. KERREY. Reserving the right to object, is this just a unanimous consent to read the amendment?

Mr. HOLLINGS. We have to read the amendment.

AMENDMENT NO. 1258

(Purpose: To make minor, technical, and other changes in the reported bill)

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] for himself and Mr. HOLLINGS proposes an amendment numbered 1258.

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

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

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Mr. KERREY. Reserving the right to object, Mr. President, what are we doing here?

The PRESIDING OFFICER. The Senator from South Dakota just asked the amendments be considered as read.

Mr. PRESSLER. I am asking unanimous consent to adopt the managers' amendments, which I have sent to the desk, and which have been cleared on both sides of the aisle.

Mr. HOLLINGS. Is that cleared with the distinguished Senator?

Mr. KERREY. I have great respect for the Senators from South Carolina and South Dakota, but I have not read the amendment. It was just brought to me. It is 40-some pages long and I understand there is lots in it. I cannot. I object.

The PRESIDING OFFICER. Objection is heard.

Is there debate on the amendment?

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

Mr. KERREY. Mr. President, I ask unanimous consent to withhold the request for the quorum call.

The PRESIDING OFFICER. Is there objection?

The Senator from Nebraska seeks recognition? The Senator from Nebraska.

Mr. KERREY. Mr. President, I know there is some confusion. I see my friend from South Carolina and South Dakota as well. I have a great deal of respect for them. I take a great deal of interest in this legislation. They have been kind to allow a member of my staff to sit in on lots of the deliberation.

But I want my colleagues to understand there is a lot in this bill that is not very well understood. I declare straight out I will not vote for this bill in its current form. I am here because I see great promise in telecommunications. I see great promise, in fact, in deregulating the telecommunications industry and using competition to regulate as opposed to having Government mandates and so forth do the job.

But in 1988 I signed a deregulation bill. I may be, for all I know, the only Member of Congress who can come to the floor and say "I signed a deregulation bill for telecommunications." And I know that deregulation does not mean competition. You can have deregulation and have no competition.

I call upon my colleagues who wonder about the impact of their votes. There is a great deal of concern about, for example, the budget resolution we took up. "Gee, what is this going to do to me? Is it going to be difficult to explain at home? There are lots of things in there that might become unpopular and am I going to pay for voting yes on the budget resolution?"

We have lots of issues that are extremely controversial. This is a lot more controversial than meets the eye. I ask my colleagues who are considering voting yes for this and want to move it through quickly to recall what life was like in 1984 when Mr. Baxter, from the Department of Justice, signed a consent decree divesting AT&T of the Bell operating companies, filing that decree with the Federal court here in Washington, DC.

I remember I was Governor of Nebraska at the time and I can tell you, you could have selected a thousand people at random and asked them this question: Would you like Congress to put the Bell companies back together? Do you like what Baxter and Judge Greene did?

And of the thousand people I will bet 998 people would have said "Reverse it. Put it back together. We do not like the confusion that we have. We do not like trying to figure out all this stuff." It was not popular. Do not let anybody be misled by this. This is going to create considerable confusion in the early years. You are not likely to be greeted by a round of applause by households, consumers, who have not been consulted about this legislation.

This is not a Contract With America. Most of the things that we have taken up in this Senate have been carefully polled and researched to determine whether or not they are popular. I have heard, whether it is the balanced budget amendment or the budget resolution or term limits, all sorts of other things, people come down to the floor and say, "In November the people of the United States of America spoke and here is what they meant." I have heard speaker after speaker say that. And in many cases I agreed with them, because I ran in November of 1994.

But I did not have a single citizen, when I was out campaigning, come up to me and say: "Boy, make sure when you go back, if you get reelected, if you go back and represent us, make sure you go back there and deregulate the phone companies. Make sure you go back there and deregulate the cable industry. Make sure. Bob, make sure, if you get back there, get rid of the ownership restrictions on television stations, on radio stations. Because that is what I want. I am really excited about all this stuff. I really think there is a lot in this for me. That is what I want. That is the sort of thing I would like to have you go back there and do."

The American people have not been polled on this one. The distinguished majority leader came down and said there is bipartisan support. It is not a Democratic issue. It is not a Republican issue. He is quite right. It is not. This is an issue that has been discussed at length and I discussed it at length with many corporations that want to be deregulated. They want to be deregulated. In many cases they are right.

But if you listen to the rhetoric, just this far, you would think that the current regulation is holding back the telecommunications industry to such an extent that we have lousy telephone service, that we have noncompetitive industries. You would think America was somehow backwards compared to all the rest of the world. That is not true.

If you look at the OECD examinations of our industries, telecommunications, including the telephone companies, are among the most competitive in the world and among the most productive in the world.

It does not mean, because a company is regulated, that it is not productive or that it is not competitive or that somehow it is going to produce an unsatisfactory thing for the American people.

I am telling my colleagues a lot of people will come down here and say, "It must be good. There is a lot of bipartisan support for it." Walk up to the desk, check out a lot of these amendments, see which way people are voting—this one is going to be remembered. This vote is a big vote. In my State I have about a million households. If you talk telecommunications to those households they do not talk faxes. They are not thinking about enhanced digital processing and all that stuff. They are saying, "What is my dial tone going to cost me? What is my cable going to cost me?" That is what they talk about.

I think we need to come down to this floor and ask ourselves a question. What is this bill going to do for those households? What is it going to do for the consumer? I hear people say it is going to create lots of new jobs. In the course of this debate we are going to come down and examine the question: Who has been creating the jobs?

(Mr. LOTT assumed the chair).

Mr. KERREY. Where are the jobs going? One of the things I hear from people, an awful lot of telecommunications industry people working for the telecommunications company, is substantial downsizing. I say, "Do you want to deregulate? Are you going do get more jobs?" They say, "I do not know. You know. It has not been working too good thus far."

I am down here to talk about what this is going to do for the many households, and for the American consumers. I look forward to the debate. There is much in this legislation that I support. I believe in many cases deregulation will produce a competitive environment that will benefit the American consumer, and that will benefit the American household. But let no one be mistaken. When we pass this piece of legislation in the Senate and go to conference with the House, and get final passage in the early days, do not expect to have the people who vote for you say you were right. "Boy, this thing has really worked." It may take 9 or 10 years, which is what happened with divestiture. It took us a good 10 years before people began to say, "Wait a minute. This is working. Competition is bringing the price down. The quality is going up. This appears to be in fact generating something beneficial to me."

So I would like to get a little fundamental here. I very often, as I am sure the distinguished Presiding Officer does and other Members do, get

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asked, "What is it that you do? What do you in Washington, DC?" Do I just come down to the floor and give speeches? Do I just answer my telephone and answer letters and do constituent service for the people are having trouble with the IRS, the EPA, or various other agencies of the government? Yes. I try to explain to them I am involved with writing laws. That is what we do here. We write laws; and that the laws matter. I am not a lawyer.

I very often wonder whether or not one of the most important things lawyers do is write the laws that are so darned confusing we have to hire them in order to tell us what is in them. But the longer I am on the job, the longer I am on the job of being in politics and being a politician, the law is becoming more important to me. I see that they are alive. They have an impact on people, and they make a difference.

This bill has about 144 pages in it. Every single word is important. Every single phrase here is going to affect something. We all know it. We have them coming into the office saying we are concerned about this particular phrase, we are concerned about this particular paragraph. I have heard it already referenced—some of the agreements have been difficult to get. They have been difficult to get because every time you do something somebody says, "Gee. That is going to affect me in an adverse way."

The distinguished Senator from Alaska had an amendment earlier that paid for the cost of the universal service, and one of the things that he did—I believe he is quite right—the National Association of Broadcasters is going to object. There are going to be people who say, "I do not like where you got the money." Everything we do in this legislation we know affects one interest group or another. But it is also going to affect more than almost anything we have discussed thus far this year; indeed, perhaps for a long, long time, every single American household.

If you have a telephone in your home, it is going to affect you. If you have a cable line running into your household, this bill is going to affect you.

I just said to citizens out there who are wondering about what the mumbo jumbo is about, you are going to hear a lot. You had better pay attention because, if you have a telephone, and you if you have a cable line coming into your household, you had better pay attention to this legislation because it is going to have a big impact upon you. You are going to hear a lot of people coming down saying this is going to be good for you. You did not ask for it. You did not say, "By gosh. Let us change this law." You did not ask for this thing. But we have figured out this is going to be good for you. And make no mistake about it. We have really paid careful attention to this legislation. We know exactly what it is going to do.

Mr. President, I believe that the American people deserve as a consequence of the impact of this legislation a good and healthy and lengthy debate.

I heard the distinguished occupant of the Chair earlier say he hopes this thing does not degenerate into a filibuster. I do not intend to filibuster this thing. I point out with great respect to the Senator from Mississippi that 1822 would have passed last year if it had not been filibustered and slowed up and tied up by people who said we do not want this thing to go. This would have been law last year I believe. I do not know if the Senator from South Carolina can confirm that.

I do not want to tie this thing up with filibusters and delays. I intend, when there is a manager's amendment or incidental amendment, to examine the language because the language is important. It is going to have an effect on people.

I say, again for emphasis, that I believe this vote is going to be a lot more controversial the further away you get from it than people suspect today. One of the things about laws that citizens need to understand is that very often it is about power. That is to say, who has the power?

I joined with, again the distinguished Senator from South Carolina, in voting against tort reform bill a little earlier because in my judgment that was about power. That was about saying to the citizens of this country you are getting swept away saying the trial lawyers are making life miserable for you. Just ask yourself this question: You get hurt out there, you have a problem out there. Who is going to help you? Is congress going to help you? Are you going to call up your Congressmen and say, "I am getting abused by the phone and cable companies. I do not like what is going on out there. Do you think Congress is going to rush to your defense? Do you think it will be possible for you to get the agencies of the Federal Government to rally to your cause? And you probably do not even have enough money to buy an airplane ticket to come back here, and if you came back here you will not know where to go.

This is about power. And regulations are in place to protect the interests of the people. That is what they are there for. Let us deregulate.

I have a little case going on right now in Omaha, NE, that illustrates what I am talking about. We have a plant in Nebraska which employees a couple of hundred people. Unfortunately, the company processes lead, and they put a lot of lead in the air and water. And it has been determined—and no one disputes it—that lead damages newborn babies without dispute. We do not have leaded gasoline any longer because we have decided that is the case. We have a Clean Air Act, we have a Clean Water Act. This company has been out of compliance for over 15 years.

Guess how we are going to resolve it? Do you think we resolved it because a U.S. Senator intervened on their behalf? Do you think the Congress came to the rescue? Do you think it was the administrative branch? No, sir. A couple of citizens filed a suit in court. It was the judiciary. It was the right of a citizen to go to court and say, "This company is not obeying the law of the land. I am going to insist that they obey the law of the land."

Mr. President, make no mistake about it. This piece of legislation is about who controls the airways, who controls your telephone, who controls the information? It is about power.

I hear a lot of people say, "Well, we ought to get the government out of that." Let us have a debate about what the government should or should not do on behalf of the citizens. I am prepared to do that. I think it is a healthy debate. Let us not presume it is quite so easy as just saying competition is the best regulator, which I heard three or four or five times. Competition does not give us clean air. Competition does not give us clean water. Competition would not likely make every single factory in the workplace in America safe. Maybe somebody wants to come down here and say that is the case.

I get 1,000 Americans who say, "You tell me." Do you trust the corporation? You have a corporation out there that is desperately worried about their quarterly profits. They are worried about bottom line. They have the shareholders out there to perform for, and they have to make a decision. They have 1,000 people working for them, and have been working for them let us say 30 years; 30,000 man and woman hours in that corporation. They have to make a decision to lay all thousand of them off, and give them no fringe benefits, no severance pay, no retirement. All of those things add cost to the corporation.

I ask my Americans. Do you trust that corporation? Do you think that corporation is going do say "No. I think it is right and decent; I do not care what the stock holders say, what Wall Street says; I am going to ignore all of those people up in New York City; I do not care what they say; I am going to do the right thing; I am going to give you severance pay; I am going to provide you with your health care, and take care of that retirement benefit because I care about you; you are a human being; I am not going to treat you like trash?"

I do not believe many Americans are going to say that is likely to be the case. If a company is a mom and pop shop, owned by an individual which owns 100 percent of the stock, that might be different. But when that company CEO worries about the value of its share, that companies CEO does things differently. They have to. I do not say they are doing the wrong thing. I do not blame them for doing that. But please do not come and say that the market is going to get the job

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done. The market rewards people that produce. The market rewards a much different set of values than the values that I have just described with these thousand families.

So again, the next thing I say to citizens who are wondering about these 144 pages and all of the amendments that will be offered, it is about power and power over your lives, power to deliver you information, power to give you a phone service, power to give you video information, power to give you the things that you say that you want.

For your information, a lot of people who are coming down here saying get the government out of that are very strongly supportive of unfortunately a title offered by the senior Senator from Nebraska, title 4, which said we need to have a lot more government involvement when it comes to regulating.

I understand there is going to be some amendment to make even tougher penalties. That is popular. That one we all know. People are fed up with obscenity and they are fed up with the stuff they see on television and they want us to do something about it. And title IV attempts to do that. I hope we are a bit careful, to say the least, with title IV, but title IV is more Government, it is not less. Title IV is the statement by Members of Congress that says the market does not work when it comes to obscenity.

Do some people want to come here and tell me it does? Does somebody want to come down here and say the market is the best regulator of obscenity? I do not think so. I do not think there is going to be a single Member come down here and say just let the market take care of it; we do not care what kids are getting over the Internet. We do not care what is coming into homes.

No. In that instance the market goes out the window. In that instance we say Time/Warner is putting out slime. We have to regulate them in some fashion.

So, Mr. President, again, I have a great deal of respect and appreciation for the managers of this bill. They have done an awful lot of work on it. I do intend to carefully examine the amendments that are offered. I do believe that increased competition can be enormously beneficial. I believe that it can, properly done, result in lower prices, higher quality service, particularly, as I said, if it is done in a fashion that lets everybody compete.

Again, I do not underestimate the difficulty of this. I am going to have a lot of explaining to do to my citizens to tell them why this is good for them because in the early days when they get competition they are going to get confused. And in the early days they may even get some price increases. They may find themselves paying higher telephone service. They may find themselves paying higher cable. We do not know. We are saying let the market set the price, in general, once you get to the final end of this thing. Let the cost determine what people are going to pay. We have a very small amount of subsidy in the universal service fund. We have an education provision that some people are going to come down here and try to strike, saying the market ought to have taken care of that. After having given speeches saying this is good for health care, this is good for education, they do not even want to have that provision in this piece of legislation.

I have many problems with this bill, Mr. President. I do believe the Department of Justice needs a role in this. I do not think consultation is enough. I would cite as case No. 1 why consultation is not enough, the very thing that Members will use when they are saying that competition works, and that is Mr. Baxter and Judge Greene getting together, the Department of Justice getting together with a Federal judge and putting together a consent decree.

It was the Department of Justice. It was the Department of Justice that gave us the competitive environment. It was not the Federal Communcations Commission. I am not calling for increased authority, increased power, but I want them to do more than consult. They understand competition. The Antitrust Division of the Department of Justice understands where and when competition is, and they are about the only ones in this town that, at least by my measurement, are out there fighting to make sure that that marketplace in fact is working.

I have serious problems saying that telephone companies can acquire cable companies inside of their area immediately.

Mr. President, I believe we have to have two lines coming into the home. I believe you have to have—if it is going to be fiber or some kind of combination of coax and fiber, I do not know what it is going to be, but I want two lines coming into my home.

I have heard people talk an awful lot about competition, and I have heard all the companies coming in saying they want a competitive environment. This is one thing I know. Competition to me means I have choice. Again, this idea of choice is a two-edged sword. You are going to have a lot of households out there that are not going to be terribly pleased with this new choice they have, and they are not going to be terribly happy when they see what that choice might do.

We have to be prepared to stay with this thing. To my mind, choice means if a company does not give me what I want, I can take my business someplace else. Competition means to me I can go wherever I want and get the service I want. And I believe in many ways this bill does just that.

The requirements of unbundling, of dialing parity, the requirements that are in this legislation in title I, in my judgment, provide a good basis for us to have a competitive environment. Allowing the phone companies to go out and buy cable inside their own area, Mr. President, is going to restrict competition immediately. We are not going to have the local cable company and the phone company competing because the phone company is going to have an incentive to buy them. If they buy them, it ends that competition.

I am prepared to hear arguments about that, but I think allowing this cable-Bellcore ownership in the local area does precisely the opposite of what this bill intends to do.

The other objections and problems that I have with the bill I will come later to the floor and try to address. I see the Senator from Pennsylvania is down here. I suspect that he wants to make a statement. I just wanted to stand up at this point in time and say to the Senator from South Dakota and the Senator from South Carolina I do not intend to stand down here and stop this piece of legislation from being enacted. But I do intend to stand down here and examine every amendment that is proposed and make sure it is an amendment that I agree to for all the reasons I cited earlier.

The consumers of this country, the households of this country have not been consulted. We are presuming that it is going to be good for them because we have talked to American corporations and they are saying it is going to be good for them. They are saying this is going to be good for consumers. The corporations are saying it is going to be good for those households. They are saying it is good because they are getting more jobs, higher service, better quality, and lower prices.

That is what they are saying. It is not coming from households. This is not coming from the people of the United States of America, whether it is the people of South Dakota, the people of Nebraska, South Carolina, Mississippi, or Pennsylvania. We believe that we have something here that is going to be good for them, but they have not come to us and said: Please do this because we think this needs to be done.

So I again will have many opportunities to stand and talk, and I look forward to what I hope will be a straightforward and healthy and honest debate, something that I hope does produce a final change in the 1934 Communications Act which I think does need to be changed. But at the end of the day I wish to be able to say to the consumers of Nebraska that this is going to be good for you. I wish to able to say to every household in Nebraska you are going to get benefits from it and these are the benefits that I believe are going to occur.

At this stage of the game, Mr. President, I cannot support this legislation for the reasons cited, and I look forward to engaging in what I said I hope will be a constructive debate.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. I thank the Senator from Nebraska for his statement. In

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fact, the other day I cited him, when I was on a national program of State legislators and they asked, in terms of a model of a State to deregulate, what might it be. And I suggested the work of BOB KERREY of Nebraska when he was Governor. I observed his work in deregulating telecommunications in that State, and I certainly look forward to his insights.

We have worked on a bipartisan basis on this bill. In fact, all the Democrats on the Commerce Committee voted for the bill. Senator HOLLINGS did a good job. I visited with and delivered a copy of the original draft bill to each of the Democrats on the Commerce Committee.

Two Republicans on the committee voted against the bill. Eight Republicans on the committee voted for it. This is a bipartisan bill. All the Democrats on the committee voted for it. I think that is a very important point.

THE PUBLIC UTILITY HOLDING COMPANY ACT PROVISIONS

Mr. D'AMATO. Mr. President, today I rise to speak about certain provisions in S. 652, the Telecommunications Competition and Deregulation Act of 1995.

This bill contains provisions that would significantly alter the Public Utility Holding Company Act of 1935 (PUHCA). The PUHCA was originally enacted 60 years ago to simplify the utility holding company structure and ensure that consumers were protected from unfair rate increases. At that time, there were many industry abuses involving the pyramidal corporate structures of holding companies which greatly increased the speculative nature of securities issuances, led to market manipulation, and inflated the capital structure. The abuses in the industry made it nearly impossible for the States to adequately protect utility ratepayers.

The PUHCA limited the types of businesses that holding companies could acquire to utility related services. As reported out of the Commerce Committee, Sections 102 and 206 of the "Telecommunications Competition and Deregulation Act" would permit diversification of registered holding companies into the telecommunications business—without SEC approval or any other conditions. Allowing holding companies to diversify away from their traditional core utility operations is a departure from the basis principles underlying the 1935 Act.

Mr. President, my primary concern with these sections of the "Telecommunications Competition and Deregulation Act" is that losses resulting from the subsidiaries telecommunications activities could be passed on to public utility customers in the form of higher utility rates.

I would like to commend Senator PRESSLER and Senator LOTT for including my provision—which addresses these concerns—in the manager's amendment. My provision puts in place the proper consumer safeguards to protect electric utility ratepayers and stockholders from bearing the costs of diversification by registered holding companies into telecommunications activities.

It requires the Federal Communications Commission, the Federal Energy Regulatory Commission, and the State regulators to monitor the activities and practices of both the subsidiaries and the parent holding companies that engage in telecommunications activities in order to ensure that utility consumers pay only what they get.

For example, my provision would ensure that telecommunications-related activities are conducted in a separate subsidiary of the holding company. It would also provide the States with the appropriate regulatory, investigatory, and enforcement authority to protect utility consumers. To this effect, it would require the States to approve any rate increases by those utility companies that have a telecommunications subsidiary. As a result, the States can examine the proposed rate increase to make sure it is justified and that utility customers are not subsidizing the holding company's telecommunications-related costs.

The Banking Committee has consulted the SEC as well as industry and consumer representatives in crafting this provision to make sure appropriate safeguards will allow the holding companies to diversify without negative consequences to utility customers. We have struck a reasonable balance. As a conferee on the Telecommunications Competition and Deregulation Act of 1995, I will be in a position to make certain that this balance is preserved.

At the same time, I would add that the Banking Committee intends to examine the continuing need for the PUHCA once the Securities and Exchange Commission releases its report and recommendations on repeal or reform of the Act.

I would like to thank Senator PRESSLER, Senator LOTT, Senator BUMPERS, Senator SARBANES, and their staffs for their cooperation on this issue.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Finance.

(The nominations received today are printed at the end of the Senate proceedings.)

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-146. A petition from a citizen of the State of Indiana relative to taxes; to the Committee on the Judiciary.

POM-147. A resolution adopted by the Board of Representatives, Otsego County, New York relative to local government resources; to the Committee on the Judiciary.

POM-148. A resolution adopted by the Council of the City of Alexandria, Virginia relative to the flag; to the Committee on the Judiciary.

POM-149. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on the Judiciary.

"SENATE CONCURRENT RESOLUTION 1018

"Whereas, the people of the State of Arizona believe that state legislatures should be provided with a method of offering amendments to the Constitution of the United States: Therefore be it

"*Resolved by the Senate of the State of Arizona, the House of Representatives concurring:*

"1. That the Congress of the United States propose to the people of the United States an amendment to the Constitution of the United States to amend the Constitution of the United States as follows:

"ARTICLE V—AMENDMENT OF THE CONSTITUTION

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no States, without its Consent, shall be deprived of its equal Suffrage in the Senate.

"Whenever three-fourths of the legislatures of the States deem it necessary, they shall propose amendments to this Constitution. These proposed amendments are valid for all intents and purposes two years after these amendments are submitted to Congress unless both Houses of Congress by a two-thirds vote disapprove the proposed amendments within two years after their submission.

"2. That the Secretary of State of the State of Arizona transmit copies of this Concurrent Resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the President of the Senate and the Speaker of the House of Representatives of each state's legislature of the United States of America, and the Arizona Congressional Delegation."

POM-150. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on the Judiciary.

"SENATE CONCURRENT RESOLUTION 1006

"Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

"1. The following Declaration of Sovereignty is adopted:

"*Section 1:*

"A. We, the legislature of the State of Arizona, hereby reaffirm the sovereignty of the states and of the people.

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THE TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT OF 1995 COMMUNICATIONS DECENCY ACT OF 1995

DOLE AMENDMENT NO. 1255

Mr. DOLE proposed an amendment to the bill (S. 652) to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes; as follows:

On page 9, strike lines 4 through 12 and insert the following:

(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.

On page 40, line 9, strike "to enable them" and insert "which are determined by the Commission to be essential in order for Americans".

On page 40, beginning on line 11, strike "Nation. At a minimum, universal service shall include any telecommunications services that" and insert "Nation, and which".

On page 70, between lines 21 and 22, insert the following:

(b) 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 9a), (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 does not, directly or through an affiliate, own or control a daily newspaper or a tier 1 local exchange carrier.".

On page 70, line 22, strike "(b)" and inset "(c)".

On page 71, line 3, strike "(c)" and insert "(d)".

On page 79, strike lines 7 through 11 and insert the following:

(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 provision 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 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.

On page 79, line 12, strike "(2)" and insert "(3)".

On page 79, line 18, strike "(3)" and insert "(4)".

On page 79, line 21, strike "(4)" and insert "(5)".

On page 79, line 22, strike "modification required by paragraph (1)" and insert "modifications required by paragraphs (1) and (2)".

On page 116, between lines 2 and 3, insert the following:

(b) DOMINANT INTEREXCHANGE CARRIER.—The Commission, within 270 days after the date of enactment of this Act, shall complete a proceeding to consider modifying its rules for determining which carriers shall be classified as "dominant carriers" and to consider excluding all interexchange telecommunications carriers from some or all of the requirements associated with such classification to the extent that such carriers provide interexchange telecommunications service.

On page 116, line 3, strike "(b)" and insert "(c)".

On page 117, line 1, strike "(c)" and insert "(d)".

On page 117, line 22, strike "**REGULATIONS.**" and insert "**REGULATIONS; ELIMINATION OF UNNECESSARY REGULATIONS AND FUNCTIONS.**".

On page 117, line 23, strike "(a) BIENNIAL REVIEW.—" before "Part".

On page 118, between lines 20 and 21, insert the following:

(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 (3) 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.—

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(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.

On page 117, between lines 21 and 22, insert the following:

(d) 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 306, 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 other law.

On page 118, line 20, strike the closing quotation marks and the second period.

On page 118, between lines 20 and 21, insert the following:

"(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.".

On page 119, line 4, strike "may" and insert "shall".

On page 120, between lines 3 and 4, insert the following:

"(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 forebearance 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 while or in part and shall explain its decision in writing.

On page 120, line 4, strike "(c) and insert "(d)".

STEVENS AMENDMENT NO. 1256

Mr. STEVENS proposed an amendment to the bill S. 652, supra; as follows:

At the appropriate place in the bill insert the following:

SEC. . 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 megaherts 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 megaherts of additional spectrum, for a total of 264 megaherts, 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 megaherts 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 megaherts of spectrum identified for reallocation from governmental to non-governmental or mixed use—

(A) 50 megaherts has already been reallocated for exclusive non-governmental use,

(B) 45 megaherts will be reallocated in 1995 for both exclusive non-governmental and mixed governmental and non-governmental use,

(C) 25 megaherts will be reallocated in 1997 for exclusive non-governmental use,

(D) 70 megaherts will be reallocated in 1999 for both exclusive non-governmental and mixed governmental and non-governmental use, and

(E) the final 45 megaherts will be reallocated for mixed governmental and non-governmental use by 2004;

(6) the 165 megaherts of spectrum that are not yet reallocated, combined with 80 megaherts 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.

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should vote. Other opponents have threatened to filibuster to prevent a final vote.

It is time for the Senate to act. By now it is obvious that Dr. Foster is a highly principled physician and educator who has devoted his life and his career to the service of others. His record is outstanding. He has been widely praised for his contributions to the quality of health care for his patients, for his service to his community, and for his research and teaching and medicine. We do a disservice to Dr. Foster, the Senate and the Nation as a whole by prolonging this process.

The Nation has now been without a Surgeon General for 6 months, and there is no justification for further delay. Only one issue is holding up this nomination. Many other issues have been raised as a smokescreen, but they are easily dispelled. The real issue delaying this nomination is the issue of abortion. The diehard opponents of a woman's right to choose are doing all they can to block this nomination because Dr. Foster participated in a small number of abortions during his 38-year career. But Dr. Foster is a baby doctor, not an abortion doctor. He has delivered thousands of healthy babies, often in the most difficult circumstances of poverty and neglect. As one commentator has observed, "Dr. Foster has saved more babies than Operation Rescue."

In any event, abortion is a legal medical procedure and a constitutionally protected right. It is not a disqualification for the office of Surgeon General of the United States. And there is no justification for some of our Republican colleagues to try to make it one.

Dr. Foster is an obstetrician and a gynecologist, and it is no surprise to anyone that he has participated in abortions. Those who have heard Dr. Foster describe his vision for health care and have examined his record know about the lives he has saved, the hundreds of young doctors he has trained, his outstanding research on sickle-cell anemia and infant mortality, his model program on maternal and infant care, and his groundbreaking work to combat teenage pregnancy. President George Bush thought so highly of Dr. Foster's "I Have a Future Program" in Nashville that he honored it with the designation as one of his thousand points of light.

With this nomination, the Nation has an unprecedented opportunity to deal more effectively with some of the more difficult challenges facing us in health care today and to do it under the leadership of an outstanding physician and an outstanding human being who has devoted his life to providing health care and for opportunity to those who need the help most.

As Dr. Foster has stated, his first priority will be to deal with the Nation's overwhelming problem of teenage pregnancy, and he is just what the doctor ordered to lead this important battle.

Teenage pregnancy is a crisis of devastating proportions. The United States has the highest rate of teenage pregnancy in the industrial world. More than a million U.S. teenagers become pregnant every year, and every day the problem gets worse. Dr. Foster can be the national spokesman we need on this issue to educate teenagers about the risks of pregnancy.

Every day, every week, every month, every year, the number of teenagers lost to this epidemic grows further out of control. With Dr. Foster's leadership, we have an unparalleled opportunity to deal more effectively with this cruel cycle of teenage pregnancy, dependency and hopelessness.

Dr. Foster's "I Have a Future Program" has been a beacon of hope to inner-city teenagers. His program provides the guidance they need to make responsible, sensible decisions about their health and their future and to put themselves on the road to self-sufficiency and productivity and away from dependency, violence and poverty. He has taught them to say no to early sex and yes to their futures and to their education and to their dreams.

Dr. Foster has devoted his life to giving people a chance, giving women the chance for healthy babies, giving babies a healthy childhood, giving teenagers a chance for successful futures.

Now Dr. Foster deserves a chance of his own, a chance to be voted on by the entire Senate. I urge the majority leader to do the right thing and bring this nomination up before the Senate and a vote by the entire Senate.

Mr. President, I heard earlier during the debate and discussion that we have legislation before us that is going to be necessary to pass by October. I daresay that every day that we delay in terms of approving Dr. Foster is a day when this Nation is lacking in the leadership of this extraordinary human being who can do something about today's problems, not problems and challenges that the States are going to face in the fall, but today's problems, tomorrow's problems, on the problems of teenage pregnancy and the problems of child and maternal care, and all the range of public health problems that are across this country.

That individual ought to be approved. We ought to have a debate. If the majority leader was looking for something to do on a Friday, we ought to be debating that today and voting on it today, instead of debating the issue that is going to deny working families income to put bread on the table.

We can ask what our priorities are. The majority has selected to debate Davis-Bacon, not to debate the qualifications of Dr. Foster. As much as I am sympathetic to where we might be in the fall, I am concerned about the public health conditions of the American public today. There is no excuse—no excuse whatsoever—not to bring him up, other than the power of those who have expressed their views about the issues on abortion. That is what is behind this delay, and it is wrong.

Dr. Foster has appeared before the committee, answered the questions, has been reported out, and he is entitled to a vote. Even two members of our committee who voted in opposition indicated that they believe the Senate ought to vote on this.

We have to ask ourselves, how much longer do we have to wait? This is a timely, important, sensitive position, and this country is being denied the leadership of Dr. Foster, and we have no adequate explanation about why that is the case. The nominees are entitled to be debated and to be reported out and, once reported out, they are entitled to be voted on in the U.S. Senate.

So, Mr. President, I hope that we will have an opportunity the next time the majority is looking around for something because we are not ready to deal with the welfare reform issues, and we are not prepared to deal with some other issue, that we can move ahead on the Dr. Foster nomination. We are ready to debate it. The committee is ready to debate it. We are entitled, he is entitled, and the country is entitled to have a vote on that nomination, and I hope that it will be very soon.

TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

SECTION 252(a)(2)(A)

Mr. PACKWOOD. Section 252(a)(2)(A) requires a separate subsidiary for all information services except those that were being offered before July 24, 1991. Since that date literally hundreds of information services have been initiated and offered, because July 24, 1991, is the day before the information services line of business restriction was lifted by the MFJ court. This means that all of those services have to be shifted to a separate subsidiary on the date of enactment of this act.

Are there not two problems in your view: First, the bill does not grandfather all existing information services. Second, it will be impractical for Bell operating companies to transfer existing information services to a separate subsidiary prior to the date of enactment of this act.

Mr. PRESSLER. Yes; I agree. It is my intention to address these problems in conference.

ROTARY PEACE PROGRAM ON POPULATION AND DEVELOPMENT

Mr. NUNN. Mr. President, I have recently been contacted by Mr. David Stovall, a constituent from Cornélia, GA. In addition to his professional work at Habersham Bank and his community service with the chamber of commerce and the Georgia Mountains Private Industry and Local Coordinating Committee, Mr. Stovall serves in the Habersham County Rotary Club and as governor of Rotary District 6910.

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(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.

On page 117, between lines 21 and 22, insert the following:

(d) 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 other law.

On page 118, line 20, strike the closing quotation marks and the second period.

On page 118, between lines 20 and 21, insert the following:

"(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.".

On page 119, line 4, strike "may" and insert "shall".

On page 120, between lines 3 and 4, insert the following:

"(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 forebearance 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 whle or in part and shall explain its decision in writing.

On page 120, line 4, strike "(c) and insert "(d)".

STEVENS AMENDMENT NO. 1256

Mr. STEVENS proposed an amendment to the bill S. 652, supra; as follows:

At the appropriate place in the bill insert the following:

SEC. . 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 megaherts 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 megaherts of additional spectrum, for a total of 264 megaherts, 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 megaherts 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 megaherts of spectrum identified for reallocation from governmental to non-governmental or mixed use—

(A) 50 megaherts has already been reallocated for exclusive non-governmental use,

(B) 45 megaherts will be reallocated in 1995 for both exclusive non-governmental and mixed governmental and non-governmental use,

(C) 25 megaherts will be reallocated in 1997 for exclusive non-governmental use,

(D) 70 megaherts will be reallocated in 1999 for both exclusive non-governmental and mixed governmental and non-governmental use, and

(E) the final 45 megaherts will be reallocated for mixed governmental and non-governmental use by 2004;

(6) the 165 megaherts of spectrum that are not yet reallocated, combined with 80 megaherts 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.

HeinOnline -- 3 Bernard D. Reams, Jr. & William H. Manz, Federal Telecommunications Law: A Legislative History of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) including the Communications Decency Act S7927 1997

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"(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 three frequency bands (225–400 megahertz, 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.

PRESSLER AMENDMENT NO. 1257

Mr. PRESSLER proposed an amendment to amendment No. 1256 proposed by Mr. STEVENS to the bill S. 652, supra; as follows:

At the end of the matter proposed to be inserted, insert the following:

(e) BROADCAST AUXILIARY SPECTRUM RELOCATION.—

(1) ALLOCATION OF SPECTRUM FOR BROADCAST AUXILIARY USES.—Within one year after 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 licenses 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 licenses, and shall assign such licenses by competitive bidding.

PRESSLER (AND HOLLINGS) AMENDMENT NO. 1258

Mr. PRESSLER (for himself and Mr. HOLLINGS) proposed an amendment to the bill S. 652, supra; as follows:

On page 2, in the item relating to section 102 *in the table of contents*, strike "subsidiary" and insert "affiliate".

On page 2, after the item relating to section 106 in the table of contents, insert the following:

Sec. 107. Coordination for telecommunications network-level interoperability .....

On page 2, after the item relating to section 225 in the table of contents, insert the following:

Sec. 226. Nonapplicability of Modification of Final Judgment .....

On page 3, after the item relating to section 311 *in the table of contents*, insert the following:

Sec. 312. Direct Broadcast Satellite ...

On page 9, line 8, after "Act." insert "The Commission may modify any provision of the GTE Consent Decree or the Modification of Final Judgment that it administers.".

On page 9, line 16, strike 'Commission' and insert "Commission".

On page 9, line 19, strike 'Modification of Final Judgment' and insert "Modification of Final Judgment".

On page 11 beginning on line 4, strike "those companies" and insert "any company".

On page 11, line 6, strike "Judgment," and insert "Judgment to the extent such company provides telephone exchange service or exchange access service,".

On page 12, line 3, insert "directly" after "available".

On page 12, beginning with "The term" on line 5, strike through line 8.

On page 12, line 13, insert "only" after "shall".

On page 12, line 15, after "services" insert "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*".

On page 14, between lines 10 and 11, insert the following:

"(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.".

On page 16, line 17, strike "software);" and insert "software, to the extent defined in implementing regulations by the Commission);".

On page 17, line 12, strike "carrier;" and insert "carrier at just and reasonable rates;"

On page 19, line 4, strike "of such services," and insert "of providing those services to that carrier,".

On page 19, line 5, strike "services;" and insert "services in accordance with section 214(d)(5);".

On page 21, beginning on line 7, strike "within 15 days after the State receives" and insert "at the same time as it submits".

On page 21, line 17, strike "notify" and insert "provide a copy of the petition and any documentation to".

On page 21, beginning in line 17, strike "of its petition".

On page 23, line 23, insert "feasible" after "technically".

On page 28, line 5, strike the closing quotation marks and the second period.

On page 28, between lines 5 and 6, insert the following:

"(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.".

On page 28, line 20, strike "SUBSIDIARY" and insert "AFFILIATE".

On page 28, line 21, strike "SUBSIDIARY" and insert "AFFILIATE".

On page 28, beginning on line 24, strike "its subsidiaries and affiliates) which provides telephone exchange service" and insert "any affiliate) which is a local exchange carrier that is subject to the requirements of section 251(a)".

On page 29, line 2, strike "a subsidiary" and insert "one or more affiliates".

On page 29, line 3, strike "is" and insert "are".

HeinOnline -- 3 Bernard D. Reams, Jr. & William H. Manz, Federal Telecommunications Law: A Legislative History of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) including the Communications Decency Act S7928 1997

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"(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 three frequency bands (225-400 megahertz, 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.

PRESSLER AMENDMENT NO. 1257

Mr. PRESSLER proposed an amendment to amendment No. 1256 proposed by Mr. STEVENS to the bill S. 652, supra; as follows:

At the end of the matter proposed to be inserted, insert the following:

(e) BROADCAST AUXILIARY SPECTRUM RELOCATION.—

(1) ALLOCATION OF SPECTRUM FOR BROADCAST AUXILIARY USES.—Within one year after 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 licenses 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 licenses, and shall assign such licenses by competitive bidding.

PRESSLER (AND HOLLINGS) AMENDMENT NO. 1258

Mr. PRESSLER (for himself and Mr. HOLLINGS) proposed an amendment to the bill S. 652, supra; as follows:

On page 2, in the item relating to section 102 in the table of contents, strike "subsidiary" and insert "affiliate".

On page 2, after the item relating to section 106 in the table of contents, insert the following:

SEC. 107. Coordination for telecommunications network-level interoperability .....

On page 2, after the item relating to section 225 in the table of contents, insert the following:

SEC. 226. Nonapplicability of Modification of Final Judgment .....

On page 3, after the item relating to section 311 in the table of contents, insert the following:

Sec. 312. Direct Broadcast Satellite ...

On page 9, line 8, after "Act." insert "The Commission may modify any provision of the GTE Consent Decree or the Modification of Final Judgment that it administers.".

On page 9, line 16, strike 'Commission' and insert "Commission".

On page 9, line 19, strike 'Modification of Final Judgment' and insert "Modification of Final Judgment".

On page 11 beginning on line 4, strike "those companies" and insert "any company".

On page 11, line 6, strike "Judgment," and insert "Judgment to the extent such company provides telephone exchange service or exchange access service,".

On page 12, line 3, insert "directly" after "available".

On page 12, beginning with "The term" on line 5, strike through line 8.

On page 12, line 13, insert "only" after "shall".

On page 12, line 15, after "services" insert "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".

On page 14, between lines 10 and 11, insert the following:

"(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.".

On page 16, line 17, strike "software);" and insert "software, to the extent defined in implementing regulations by the Commission);".

On page 17, line 12, strike "carrier;" and insert "carrier at just and reasonable rates;"

On page 19, line 4, strike "of such services," and insert "of providing those services to that carrier,".

On page 19, line 5, strike "services;" and insert "services in accordance with section 214(d)(5);".

On page 21, beginning on line 7, strike "within 15 days after the State receives" and insert "at the same time as it submits".

On page 21, line 17, strike "notify" and insert "provide a copy of the petition and any documentation to".

On page 21, beginning in line 17, strike "of its petition".

On page 23, line 23, insert "feasible" after "technically".

On page 28, line 5, strike the closing quotation marks and the second period.

On page 28, between lines 5 and 6, insert the following:

"(i) 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 250.".

On page 28, line 20, strike "SUBSIDIARY" and insert "AFFILIATE".

On page 28, line 21, strike "SUBSIDIARY" and insert "AFFILIATE".

On page 28, beginning on line 24, strike "its subsidiaries and affiliates) which provides telephone exchange service" and insert "any affiliate) which is a local exchange carrier that is subject to the requirements of section 251(a)".

On page 29, line 2, strike "a subsidiary" and insert "one or more affiliates".

On page 29, line 3, strike "is" and insert "are".

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On page 29, line 4, strike "provides telephone exchange service" and insert "is subject to the requirements of section 251(a)".

On page 29, line 6, strike "meets" and insert "meet".

On page 29, beginning in line 8, strike "SUBSIDIARY" and insert "AFFILIATE".

On page 29, line 10, strike "subsidiary" and insert "affiliate".

On page 30, line 4, strike "subsidiary" and insert "affiliate".

On page 30, beginning on line 10, strike "a subsidiary and any other subsidiary or affiliate of such company;" and insert "an affiliate;".

On page 30, beginning on line 14, strike "a subsidiary or any other subsidiary or affiliate of such company;" and insert "an affiliate;".

On page 30, beginning on line 19, strike "entity that provides telephone exchange service".

On page 30, beginning on line 22, strike "a subsidiary and any other subsidiary or affiliate of such company" and insert "an affiliate".

On page 31, line 2, strike "subsidiary" and insert "affiliate".

On page 31, beginning on line 3, strike "company, and any other subsidiary or affiliate of such".

On page 31, line 6, strike "pany, its subsidiaries or affiliates," and insert "pany or affiliate".

On page 31, beginning on line 11, strike "company, its subsidiaries or affiliates," and insert "company or affiliate".

On page 31, line 15, strike "tions; and" and insert "tions, 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".

On page 31, beginning on line 16, strike "a subsidiary" and insert "an affiliate".

On page 31, line 20, strike "subsidiary" and insert "affiliate".

On page 32, line 2, strike "a subsidiary" and insert "an affiliate".

On page 32, line 19, strike "or its affiliates".

On page 33, line 1, strike "subsidiary" and insert "affiliate".

On page 33, line 5, strike "and".

On page 33, line 6, strike "subsidiary" and insert "affiliate".

On page 33, line 11, strike "service." and insert "service; and".

On page 33, between lines 11 and 12, insert the following:

"(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.

On page 33, line 15, strike "subsidiary or".

On page 33, beginning on line 20, strike "subsidiaries and".

On page 34, line 1, insert "with any affiliated entity required by this section or with any unaffiliated entity" after "shared".

On page 34, between lines 19 and 20, insert the following:

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

On page 35, line 7, strike "subsidiary." and insert "affiliate.".

On page 35, line 10, strike "subsidiary" and insert "affiliate".

On page 35, line 19, strike "subsidiary" and insert "affiliate".

On page 35, line 24, after the period insert closing quotation marks and another period.

On page 36, strike lines 1 through 9.

On page 36, line 14, strike "subsidiary" and insert "affiliate".

On page 40, line 15, after the period insert "The Commission may establish a different definition of universal service for schools, libraries, and hospitals for purposes of section 264.".

On page 41, strike lines 1 through 5.

On page 41, line 6, strike "(e)" and insert "(d)".

On page 41, line 12, strike "(f)" and insert "(e)".

On page 41, line 21, strike "(g)" and insert "(f)".

On page 42, line 5, strike "maintenance and" and insert "provision, maintenance, and".

On page 42, line 7, strike "(h)" and insert "(g)".

On page 42, line 9, strike "consumers" and insert "customers".

On page 42, line 11, strike "consumers" and insert "customers".

On page 42, line 12, strike "(i)" and insert "(h)".

On page 42, beginning with "Telecommunications" on line 13, strike through the period on line 15 and insert "Telecommunications carriers may not use noncompetitive services to subsidize competitive services.".

On page 42, beginning on line 20, strike "(and may, in the public interest, bear less than a reasonable share or no share)".

On page 42, line 23, strike "(j)" and insert "(i)".

On page 47, line 3, strike "fine" and insert "sum".

On page 47, line 5, strike "establishing" and insert "determining".

On page 48, line 7, strike "fine of" and insert "sum of up to".

On page 48, between lines 17 and 18, insert the following:

(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.

On page 49, line 17, strike "basis." and insert "basis within 120 days after the application is filed.".

On page 51, line 4, insert "and provides universal service by means of its own facilities" after "214(d)".

On page 54, line 21, before "Local" insert "STATE AND".

On page 54, line 22, before "local" insert "State or".

On page 55, line 9, strike "immediately" and insert "promptly".

On page 56, line 3, strike "title; and " insert "title for the provision of telecommunications services; and".

On page 56, line 5, strike "affiliate." and insert "affiliate for the provision of telecommunications services.".

On page 57, beginning with line 8, strike through line 16 on page 63.

On page 64, line 1, insert "that it owns, controls, or selects" before "directly".

On page 64, line 13, insert "video programming provided by others" after "carries".

On page 64, line 14, insert "that it owns, controls, or selects" before "over".

On page 64, line 15, strike "subsidiary" and insert "affiliate".

On page 64, strike lines 22 through 24 and insert the following:

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

On page 65, strike lines 1 through 6, and insert the following:

"(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 to other video programming services providers basis.

On page 65, line 8, strike "subsidiary" and insert "affiliate".

On page 65, line 18, after the period insert the following: "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.".

On page 65, line 25, insert "common carrier" before "video".

On page 66, line 1, strike "the video" and insert "that".

On page 66, line 6, insert "common carrier" before "video".

On page 66, line 6, after the period insert the following: "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.".

On page 67, line 1, insert "local" before "broadcast".

On page 67, line 2, insert "identified under section 614" after "stations".

On page 68, beginning on line 11, strike "consistent with the other provisions of title VI of the Communications Act of 1934 (47 U.S.C. 521 et seq.)".

On page 69, between lines 19 and 20, insert the following:

(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;"

On page 69, line 20, Strike "(a)" and insert "(b)".

On page 70, line 22, strike "(b)" and insert "(c)".

On page 71, between lines 2 and 3, insert the following:

(d) PROGRAM ACCESS.—Section 628 (47 U.S.C. 628) is amended—

(1) by striking subsection (c)(5); and

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

"(j) COMMON CARRIERS.—Any provision that applies to a cable operator under this section shall apply to a telecommunications carrier that provides video programming 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.

"(k) SUNSET.—This section and the regulations required under this section shall cease to be effective on October 5, 2002.".

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

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(1) IN GENERAL.—Section 614(h)(1)(C)(iv) (47 U.S.C. 614(h)(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(h)(1)(C) of the Communications Act of 1934 (47 U.S.C. 614(h)(1)(C)) on the date of enactment of this Act; and

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

On page 71, line 3, strike "(c)" and insert "(f)".

On page 71, beginning with line 7 strike through line 3 on page 73 and insert the following:

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)(1) 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 cost 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.".

On page 73, line 12, strike "holding".

On page 74, beginning on line 6, strike "engaged in any activity described in paragraph (1)".

On page 774, line 8, strike "to that Act," and insert "to.".

On page 74, line 9, strike "review any such activity," and insert "review, any activity described in paragraph (1),".

On page 74, beginning with line 13, strike through line 12 on page 76 and insert the following:

(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).

(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 Senate 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 account 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 subpection (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 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 responsible 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. The reasonable costs of such audits shall be included in rates.

(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

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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.

On page 78, line 14, insert "all of" after "that".

On page 78, beginning on line 15, strike "service which is intended for and available to the general public" and insert "services".

On page 78, line 17, strike "is" and insert "are".

On page 78, line 19, strike "may" and insert "shall".

On page 80, beginning on line 16, strike "comment (and a hearing on the record if it finds that there are credible allegations of serious violations by the licensee of this Act or the Commission's rules or regulations)," and insert "comment,".

On page 81, line 11, after "determines" insert a comma and "after notice and opportunity for a hearing,".

On page 82, between lines 4 and 5, insert the following:

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

On page 84, line 15, insert "at just and reasonable rates" before "where".

On page 87, line 22, strike "of such services," and insert "of providing those services to that carrier,".

On page 87, line 24, strike "services." and insert "services in accordance with section 214(d)(5).".

On page 88, line 4, strike "area," and insert "area where that company is the dominant provider of wireline telephone exchange service or exchange access service,".

On page 88, line 5, after "market" insert "in such telephone exchange area".

On page 88, line 6, strike "or exchange access service".

On page 88, line 7, strike "interexchange" and insert "interLATA".

On page 88, line 16, strike "subsidiary or".

On page 91, line 22, strike "SUBSIDIARY;" and insert "AFFILIATE;".

On page 91 line 24, strike "SUBSIDIARY;" and insert "AFFILIATE;".

On page 92, line 6, strike "subsidiary or".

On page 93, line 13, strike "A" and insert "Effective on the date of enactment of the Telecommunications Act of 1995, a".

On page 93, line 14, strike "subsidiary or".

On page 93, strike lines 18 and 19 and insert "service.".

On page 93, line 21, strike "A" and insert "Effective on the date of enactment of the Telecommunications Act of 1995, a".

On page 93, line 22, insert "or its affiliate" before "may".

On page 93, line 23, strike "to the purposes of—" and insert "to—".

On page 94, line 10, strike "or".

On page 94, line 15, after the comma insert "or".

On page 94, between lines 15 and 16, insert the following:

"(iv) providing alarm monitoring services,".

On page 97, line 11, after "audio," insert "alarm monitoring services,".

On page 97, beginning with line 23, strike through line 2 on page 98.

On page 98, line 3, strike "(2)" and insert "(1)".

On page 98, line 6, strike "(3)" and insert "(2)".

On page 98, line 12, strike the closing quotation marks and the second period.

On page 98, between lines 12 and 13, insert the following:

"(g) 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).".

On page 98, beginning with line 13, strike through line 2 on page 99 and insert the following:

(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 interchange telecommunications carriers, except as provided by this section. Such a person shall ensure that its subscribers can obtain unblocked access to the provider of interchange 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.

On page 99, line 23, strike "thereunder." and insert a comma and "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.".

On page 99, beginning on line 25, strike "Upon the enactment of the Telecommunications Act of 1995," and insert "Upon adoption of rules by the Commission under section 252,".

On page 110, line 8, strike "SUBSIDIARY;" and insert "AFFILIATE;".

On page 100, line 15, "subsidiary" and insert "affiliate".

On page 100, beginning on line 22, strike "subsidiary" and insert "affiliate".

On page 101, line 2, strike "subsidiary" and insert "affiliate".

On page 101, line 6, strike "subsidiary" and insert "affiliate".

On page 101, strike lines 15 and 16 and insert the following:

"(2) NONDISCRIMINATION STANDARDS.—".

On page 101, line 25, after "controls" insert a comma and "or on which is acting on its behalf or on behalf of its affiliate,".

On page 102, between lines 5 and 6, insert the following:

"(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.

On page 102, line 6, strike "(C)" and insert "(D)".

On page 102, line 6, strike "subsidiary" and insert "affiliate".

On page 102, line 12, strike "(D)" and insert "(E)".

On page 102, line 19, strike "subsidiaries or".

On page 103, line 4, strike "section." and insert "section, and otherwise to prevent discrimination and cross-subsidization in a Bell operating company's dealings with its affiliate and with third parties.".

On page 103, line 15, strike "CARRIERS" and insert "PARTIES".

On page 103, line 16, strike "local exchange carrier" and insert "party".

On page 103, line 18, strike "subsidiary or".

On page 104, beginning on line 1, strike "local exchange carrier" and insert "party".

On page 4, strike lines 4 through 19, and insert the following:

"(g) APPLICATION TO BELL COMMUNICATIONS RESEARCH.—

"(1) IN GENERAL.—Nothing in this section—

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

"(B) 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).

On page 105, line 12, strike "subsidiary or".

On page 105, beginning on line 13, strike "company, subsidiary, or affiliate" and insert "company or affiliate".

On page 106, line 22, strike "subsidiary" and insert "affiliate".

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On page 107, beginning with "service" on line 5, strike through line 6 and insert the following: "service suspended if its right to provide that service is conditioned upon its meeting those obligations.'"

On page 107, line 11, strike "this section" and insert "section 251 or 255".

On page 108, line 23, strike "subsidiary or".

On page 110, line 2, strike "subsidiaries and".

On page 110, beginning on line 15, strike "subsidiaries and".

On page 110, line 21, strike "subsidiaries or".

On page 111, line 17, strike "punish" and insert "to impose sanctions on".

On page 111, line 20, strike "subsidiary or".

On page 111, line 24, insert "or an affiliate" after "company".

On page 112, line 1, strike "December 31, 1994," and insert "June 1, 1995,".

On page 112, line 4, strike "subsidiary or".

On page 112, beginning with "services," on line 8 strike through line 10 and insert "services.".

On page 113, between lines 3 and 4, insert the following:

SEC. 226. 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.

On page 113, line 19, strike "residential".

On page 113, line 23, strike "Where only a single carrier provides a service" and insert "Until sufficient competition exists."

On page 117, line 8, strike "upon request." and insert "requesting such information for the purpose of publishing directories in any format.".

On page 117, between lines 21 and 22, insert the following:

(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.

On page 119, line 3, strike, "The" and insert "Notwithstanding section 332(c)(1)(A) of this Act, the".

On page 119, line 16, strike "ers;" and insert "ers or the preservation and advancement of universal services;".

On page 121, line 23, strike "10401" and insert "14101".

On page 124, line 10, insert "or created" after "designated".

On page 124, line 16, strike "shall be assigned" and insert "shall be permitted to use".

On page 124, line 21, insert "as determined by the Commission" after "basis".

On page 126, line 8, insert "the Commission," before "the National".

On page 126, line 9, insert a comma after "Administration".

On page 128, strike lines 3 through 24.

On page 129, line 1, strike "(b)" and insert "(g)".

On page 129, line 6, strike "6" and insert "18".

On page 129, beginning on line 7, strike "undertake" and insert "commence".

On page 132, beginning on line 5, strike "designated as an essential telecommunications carrier under section 214(d)".

On page 132, line 14, after "areas." insert "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 described in section 253(d) that is considered as part of its obligation to contribute to universal service under section 253(c).".

On page 132, strike lines 15 through 23 and insert the following:

"(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 described in section 253(d) that is considered as part of its obligation to contribute to universal service under section 253(c)."

On page 133, beginning with "shall" on line 1, strike through line 6 and insert the following: "shall, for essential telecommunications carriers providing service pursuant to subsection (a), include the amount of the support payments reasonably necessary to allow such carrier to provide such service to such users under section 253."

On page 135, line 8, strike the closing quotation marks and the second period.

On page 135, between lines 8 and 9, insert the following:

"(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.".

On page 136, after line 21, insert the following:

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.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Wednesday, June 7, 1995, in open session, to receive testimony on the situation in Bosnia.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, June 7, 1995, to conduct a hearing on pending nominations.

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

COMMITTEE ON FINANCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Wednesday, June 7, 1995, beginning at 9:30 a.m. in room SD-215, to conduct a hearing on small business issues, including estate tax proposals and expensing of business equipment proposals.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 7, 1995, at 10 a.m.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, June 7, at 10 a.m. for a hearing on the subject: Duplication, Overlap and Fragmentation in Government Programs.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, June 7, 1995, at 2 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Oversight and Investigations of the Committee on Energy and Natural Resources be granted permission to meet during the session of the

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A resolution (S. Res. 130), providing for notification to the President of the United States of the election of Secretary of the Senate.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the resolution is considered and agreed to.

The resolution (S. Res. 130) was agreed to, as follows:

Resolved, That the President of the United States be notified of the election of the Honorable Kelly D. Johnston, of Oklahoma, as Secretary of the Senate.

PROVIDING FOR NOTIFICATION TO THE HOUSE OF REPRESENTATIVES OF THE ELECTION OF SECRETARY OF THE SENATE

Mr. NICKLES. Mr. President, I send a resolution to the desk notifying the House of Representatives of the election of Kelly Johnston as Secretary of the Senate and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 131), providing for notification to the House of Representatives of the election of Secretary of the Senate.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the resolution is considered and agreed to.

The resolution (S. Res. 131) was agreed to, as follows:

Resolved, That the House of Representatives be notified of the election of the Honorable Kelly D. Johnston, of Oklahoma, as Secretary of the Senate.

Mr. NICKLES. I again thank my colleagues. I thank Senator DOLE for an outstanding selection. I know Senator INHOFE, Senator DOLE, myself, Senator LOTT, and Senator THURMOND are all very proud to have Kelly Johnston be the next Secretary of the Senate.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I just want to take this opportunity to commend Sheila Burke for the great job she has done and the service she has rendered to this Senate and to this country. She is a lady of ability, integrity, and dedication. We have been very fortunate to have her to serve as she has done so faithfully.

I also would like to congratulate Kelly Johnston for assuming the secretaryship of this Senate. This is a very important position. It involves many activities that concern all of us, and I am sure, since he is going to run the service, it will be efficient, capable, and helpful to this country.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I would like to join the others this morning in congratulating Kelly Johnston upon his selection to be the Secretary of the Senate. I, too, have known Kelly for several years. I have known him to be always very efficient and very effective in whatever he has done. His work with the Republican Party in the past, but particularly his work at the policy committee, has been exceptional.

The papers, the studies, the analyses, the statistics that we receive from the policy committee—under the chairmanship of DON NICKLES, but under the stewardship, also, of Kelly Johnston as executive director of the policy committee—has been outstanding. I always look forward to receiving those documents. In fact, I have one of their very good pieces right here before me this morning on the telecommunications bill.

He has done outstanding work. I think his ability to get along with people and his knowledge of the Senate will serve us all very well. I congratulate him and his family for the fine work he has done and look forward to working with him in the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, let me also join in the welcoming of Kelly Johnston as our new Secretary of the Senate. He has done outstanding work for the Senator from Oklahoma, and we are pleased at his appointment.

I particularly wanted to emphasize the admiration that we have all had for the job done by Sheila Burke. I had the utmost confidence in the former Secretary, Joe Stewart. He had been around this body 40-some years. I will never forget, recently, as we talked, he was commenting on the outstanding job being done by Sheila Burke. He said she was the most efficient Secretary that we had ever had in there. I am sorry to see her not continue, but I understand that Kelly Johnston will be well able, after a short time, to perform equally well.

So I both welcome Mr. Johnston and I lament the loss of Sheila Burke, but she will be continuing to work with us, I am sure.

I yield the floor.

Mr. PRESSLER. Mr. President, may I just say a word about Sheila Burke and Kelly Johnston? I would like to join in praise. Sheila Burke has been absolutely amazing. She is somebody we can go to and get something done right away. She will always have the answer. I join in the congratulations to Kelly Johnston and I look forward to working with him.

TRIBUTE TO GEN. GORDON R. SULLIVAN, CHIEF OF STAFF, U.S. ARMY

Mr. THURMOND. Mr. President, I rise today to recognize one of our country's finest soldiers, Gen. Gordon R. Sullivan, the Chief of Staff of the Army, who is retiring after a distinguished 36-year career.

General Sullivan began his service in 1959 when he was commissioned a second lieutenant of armor upon graduation from Norwich University. He commanded troops at every level from platoon to division, including the 1st Infantry Division, and served two tours of duty in Vietnam. He also spent an extensive amount of time overseas, serving four tours in Euorpe and one in Korea.

General Sullivan held a number of increasingly important duty positions at the corps, NATO, and Department of the Army levels. He influenced a generation of leaders at the Command and General Staff College, where he served as the Deputy Commandant. Throughout his career he exemplified selfless devotion to duty and totally committed leadership.

I believe history will show that General Sullivan led the Army through one of its most challenging periods with exceptional skill, courage, and wisdom. Most importantly, he preserved the Army and its high standards of excellence during the turbulent post-cold-war drawdown, and positioned the Army for the future. He is widely and rightly acknowledged as a visionary thinker, both within military and private industry circles. The Army of the 21st century will regard General Sullivan as the bold, courageous architect of a preeminent military force which is able to apply technology to maximum advantage.

Mr. President, our Nation owes General Sullivan its deepest appreciation for his truly distinguished service. I wish him and his wife, Gay, continued success and happiness in all future endeavors.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

THE TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 652, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 652) to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes.

Pending:

Dole amendment No. 1255, to provide additional deregulation of telecommunications services, including rural and small cable TV systems.

Pressler-Hollings amendment No. 1258, to make certain technical corrections.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Who seeks time?

The Senator from South Dakota.

Mr. PRESSLER. Mr. President, we are resuming consideration of the telecommunications bill. We had opening

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statements last night and we urged Senators to bring amendments to the floor. We eagerly are awaiting the many amendments because we only have a certain amount of time and we are urging all offices and all Senators who have amendments to bring them to the floor. We are ready to go, as we have emphasized in our opening speeches last night.

Let me just reiterate, I think the movement of this bill is very important to America. It will create an explosion of new jobs, of new devices, and of new activities. I know there are a variety of amendments. We have welcomed them. I am prepared to yield the floor to any other Senator who has statements at this time.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Nebraska.

Mr. KERREY. Mr. President, I restate at the beginning what I said last evening; that is, I believe the distinguished chairman, the Senator from South Dakota, and the distinguished ranking member, the Senator from South Carolina, have done an awful lot of work on this, a lot of good work. I appreciate the work they have done. They allowed me to be involved in many of these steps.

But I say for emphasis, I cannot support this bill. I do not believe it provides the kind of protection for consumers that needs to be provided. I believe many of the statements that have been made thus far overestimate the impact upon the economy and underestimate the disruption that will occur to households throughout this country.

No Member should doubt this. Any Member who doubts the impact of this legislation should go back and read clippings from 1984, when William Baxter and Judge Greene signed a consent decree, or when the U.S. Government and AT&T signed a consent decree in Judge Greene's court. Talk to consumers and talk to households and citizens in 1984 and 1985, and you will find an awful lot of those folks will say, "Why don't you put the phone company back together?"

I believe that action was good. That action was taken by the Antitrust Division of the Department of Justice. I say that for emphasis. Justice is given a consultative role in this legislation. But they were the prime mover in breaking up the monopoly that many people cite as the reason for wanting to go even further today.

Second, you will hear people come to the floor and say and act as if somehow the regulations are really tying up American business. I intend to come to the floor and bring profit and loss statements and to bring economic analysis.

Where do you go in this world to find better phone service? Where do you go in this world to find better cable? Where do you go in this world to find businesses doing better than American businesses in telecommunications? It may be in fact it is true that our regulations need to be changed. But please let us not come down here and act as if we have these corporations all handcuffed as if they are not making any money, sort of hamstrung and cannot move and cannot reach the customers they want to reach to generate the revenue they are trying to generate.

This piece of legislation will touch roughly half of the U.S. companies in America and every single American household. Citizens who wonder how it is going to affect them need to pay careful attention to the 146 pages of legislation that is before this body today. The law matters. The law determines how people behave. This law governs the behavior of American corporations in nine basic communications industries. If you are a household or a citizen who is affected by the broadcast industry, this legislation affects you because this legislation affects the broadcast industry. If you are a home or a citizen who has cable coming into your household, this affects you. This legislation affects the regulations governing the cable industries of America and the telephone coming into your household.

This 146 pages in S. 652 affects you because this deregulates the telephone industries in America in a very dramatic and I believe generally constructive fashion. If you are a person who goes to the movies, or you are a person who buys CD-ROM's or buys records of any kind, this affects you because it affects Hollywood, and it affects the music recording business. It is written into this law.

If you have a newspaper coming into your household, or you subscribe to magazines or electronic publishing of any kind, it affects you because this legislation affects American publishers as well. If you buy a computer or use a computer in the workplace, it affects you again. If you purchase consumer electronics or are a consumer of wireless services or satellite services, all the nine basic communications industries, all growing relatively rapidly, all affect each and every single American citizen in their homes and in their workplace.

Let no Member of this Senate underestimate the impact of this legislation. We had a great debate over the budget resolution. I know from my own personal experience with that legislation that there was a great deal of concern. Gosh, what if you vote for it, is it going to be a problem? Are people going to get angry with you? There are changes in Medicare, and cuts in programs. Are people going to get unhappy because we finally are asking them to pay the bills of the Government? The answer is probably yes. Probably they are going to get a little bit upset.

This piece of legislation is more dramatic than the budget resolution. This piece of legislation affects Americans far more intimately than that budget resolution. There is not an American citizen that will not be affected by this piece of legislation.

Last night on the floor of the Senate the distinguished Senator from South Dakota said:

The recent hearing process which informed the Commerce Committee and led to the development of S. 652 began in February 1994. In 1994 and 1995, the Commerce Committee held 14 days of hearings on telecommunications reform. The committee heard from 109 witnesses during this process. The overwhelming message we received was that Americans want urgent action to open up our Nation's telecommunications market.

Mr. President, I challenge that statement. I challenge the statement that we can conclude from the hearing process that "Americans want urgent action to open up our Nation's telecommunications market."

Tell me who it was that in a town hall meeting stood up and said, "Senator GREGG, would you go to Congress and make sure you get down there and change the laws to help our telecommunications market?" Where do we have polling data that shows what the people of South Dakota or Nebraska or South Dakota or New Hampshire or elsewhere say about this particular piece of legislation? Were they heard in the hearing procession?

If you look, in fact, at the hearings held on this bill, on January 9, 1995, the committee had their first hearing. They heard from the distinguished majority leader, the Senator from Kansas, Senator DOLE. They heard from the chairman of the House full Committee on Commerce. Congressman BLILEY. They heard from the chairman of the Subcommittee on Telecommunications, JACK FIELDS. That was panel No. 1.

Then on the 2d of March, the committee held another hearing. They heard from Anne Bingaman, who is the Chief of the Antitrust Division at the Department of Justice. They heard from Larry Irving, Assistant Secretary of the National Telecommuncations Information Administration in the Department of Commerce, which is being proposed to be abolished, an interesting witness; Kenneth Gordon, representing NARUC, a State regulatory agency. That is panel No. 2 on the 2d of March.

Also, on the 2d of March another panel, Peter Huber, senior fellow from the Manhattan Institute; George Gilder, senior fellow from the Discovery Institute; Clay Whitehead with Clay Whitehead & Associates; Henry Geller from the Markle Foundation; John Mayo, professor at the University of Tennessee; Lee Selwyn, professor of economics and technology.

Then on the 21st of March the committee met again. This is the third hearing on this particular piece of legislation. On that day there were three panels.

Panel No. 1: Decker Anstrom with the National Cable Association; Richard Cutler, Satellite Cable Services; Gerald Hassell, Bank of New York; Roy Neel, U.S. Telephone Association; Bradley Stillman, Consumer Federation of America.

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Then the second panel: U. Bertram Ellis, Ellis Communications, Inc.; Edward Fritts, National Association of Broadcasters; Preston Padden, Fox Network; Jim Waterbury of NBC Affiliates.

Panel No. 3: Scott Harris from the FCC, not on behalf of the FCC but his own personal testimony; and Eli Noam, Communications Institute for Teleinformation. That was the third set of hearings.

On the 23d of March, the full committee had their markup, and the bill was reported out 17 to 2.

I would like to put on my glasses and read the small print of some of the things that were said in these hearings. Just again, the idea here is I am respectfully challenging what I think is a very important statement, a very important statement that lots of others are going to make as well; that is, that the overwhelming message we received was that Americans "want urgent action to open up our Nation's telecommunications market." Keep that in mind.

What do the households in your State want? What do *the citizens of your* State want? What do the people who elected you and sent you here to the U.S. Congress want? What do they want?

Let us see what they wanted as we look at the hearings that were held. They said: First, there were the three Members of Congress.

Senator Dole advocated quick passage of telecommunications legislation. He noted that rural Americans are concerned about telecommunications legislation, as it offers tremendous opportunities for economic growth. He testified that legislation should underscore competition and deregulation, not reregulation.

Chairman Billey stated that the goals of telecommunications legislation should be to: one, encourage a competitive marketplace; two, not grant special Government privileges; three, return telecommunications policy to Congress; four, create incentives for telecommunications infrastructure investment, including open competition for consumer hardware; and, five, remove regulatory barriers to competition.

Chairman Fields stated telecommunications reform is a key component of the legislative agenda of 104th Congress. He chastised those who speculated that Congress will be unable to pass telecommunications legislation this year. He asserted that the telecommunications industry is in a critical stage of development, and that Congress must provide guidance.

I did not hear any of those three witnesses come and say "Americans want urgent action to open up the telecommunications market." They are talking about American corporations. They are talking about American industry and advising them that they want to do things that they are currently unable to do because the regulations say they are prohibited from doing it. That is what this bill is about, businesses that want to do something that they are currently not allowed to do. That is what it is all about—change in the law. All of these various businesses do something that they currently cannot do. In many cases, I support it. But I am not getting calls from people at home saying, "Gee, Bob, I hope you are really getting there because we want to make sure that our Nation's telecommunications markets get opened, there is a very urgent need to do it."

Listen to panel No. 1, second hearing:

Anne Bingaman testified that the administration favors legislation that is comprehensive and national in scope, opens the BOC local monopoly, and provides for interconnection at all points.

She claims that local loop competition will bring consumers the same benefits that long distance competition brought consumers when the Justice Department broke up AT&T.

I believe that Anne Bingaman is right, but I caution my colleagues it took 7 or 8 years before the consumers gave you a round of applause. There was a long period of time after 1984 when people, at least in my State, were saying what in the Lord's name is going on here? All of a sudden I cannot get a phone into my house; I have to go to a different provider; I have competition; I have choice. What the heck is going on? What was wrong with what they had? they were saying to me. I said, well, stay with this thing. It is going to work. We are going to open up the long distance market. We are going to have competition. It is going to be good. Trust me. I trust it is going to be good.

And it has worked. It was not coming from home, Mr. President. It was not coming from households and citizens who said, Gee, Governor, would you write a letter to the Justice Department, old Bill Baxter back there, and see if he can get together with AT&T and file a document down in Judge Greene's court because we would really like to see the RBOC's spun off, and all that sort of thing.

It has worked. Anne Bingaman is correct that it worked. But it took years before we understood that citizens began to see the benefits.

Larry Irving agreed that opening telecommunications markets will promote competition, lower prices, and increase consumer choice. He stated that the government must maintain its commitment to universal service. He stated the administration's concern that private negotiations may not be the best way to open the local loop to competition. He also asserted that a date certain for elimination of the MFJ restrictions will hurt efforts to negotiate interconnection agreements with Bell operating companies.

Kenneth Gordon stated the State regulators, including those in Massachusetts, were once a barrier to competition, but are now at the forefront of promoting competition. He said that States must also retain control of universal service.

And he goes on to make some other additional comments.

But these three witnesses are beginning to talk about the consumers. They are beginning to talk about the impact upon the American people. They are beginning to express, particularly the last witness, Larry Irving, they are beginning to express concern for what happens when deregulation and competition come in. But, again, no overwhelming testimony here. None of them comes in and says we have to do this because the American people are banging down our doors and urging us to do this; no statement that has the overwhelming support of the American people; merely saying that we think it is right to deregulate; we think it will be good to deregulate; we think this will be good for the people.

Now, how many of us understand the 1994 election? A lot of us here have heard people come down to the floor and say it was this, that, and the other thing. I agree with an awful lot of it. Most of us understand one of the things that was going on in 1994, people said we do not think you people in Congress understand. We do not have any power. We are disenfranchised. We do not feel a part of this process.

Mr. President, they have not been a part of this process, in my judgment. This is about power. Corporations should do things they currently cannot do. They are telling us it is going to be good for the American people. They are telling us it is going to be good for consumers. They are telling us it is going to be good for jobs. They are telling us it is going to be good for the people. It is not the people telling us it is going to be good for them, Mr. President.

Then on that same date, on the second panel, Peter Huber noted that a date certain for entry is necessary because the FCC and the Department of Justice are very slow to act. And this is a very important issue. We have to get the witnesses coming in and saying that the FCC is a terrible regulatory body and they are very slow. This is all language to give you the impression that somehow American communications businesses are burdened down by these nasty bureaucrats over at FCC. Peter Huber said he advocated swift enactment of legislation with a date certain for entry into restricted lines of business.

Then George Gilder, the greatest advocate of deregulation of all, also advocated swift congressional action, claiming that telecommunications deregulation could result in a $2 trillion increase in the net worth of U.S. companies.

He said the U.S. needs an integrated broadband network with no distinction between long haul, short haul, and local service.

Clay Whitehead comes in and says:

Congress should not try to come in and chart the future of the telecommunications industry but should try to enable it. He also advocated a time certain for entry into restricted lines of business.

Then Henry Geller comes in. He agrees with the previous speakers that Congress should act soon.

He said that a time certain approach would work for the "letting in" process, allowing competition in the local loop, as well as the "letting out" process.

Geller advocated that the FCC should allow users of spectrum the flexibility to

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provide any service, as long as it does not interfere with other licensees.

John Mayo testified that the spread of competition in other markets over the last decade supports the opening of the local loop. He said that the interLATA telecommunications competition has been a success and Congress should follow the same model for local exchange competition.

Lee Selwyn asserted that there will be no true competition in the local loop unless all participants are required to take similar risks. Selwyn also testified that premature entry by the Bell operating companies into long distance could delay the growth of competition for local service.

I frankly do not know who all these individuals are. I do not know whether they are consultants for one company or another. I suspect that all of them have a fairly defined sense of view, defined either by the companies or encouraged by the companies as a result of previously reached conclusions.

Again, I do not hear individuals coming in and saying, do you know what it is like out in the households today trying to get cable service, trying to keep phone service? Do you know what consumers are saying out there today? Do you know what individuals are saying when all of these entities have downsized over the last 4 or 5 years? Any expression of concern for what technology does to families on the underside of that two-edged sword? Any expression of concern from any of these highfalutin individuals that are paid a lot of money to provide us with their advice about what is going on out there in America?

No, just swift action, by God. Let us get the laws out of the way, get rid of the regulations. Let these companies do whatever they see fit, whatever they decide is best for the bottom line. Whatever they decide is best for the shareowners will in the end be better for their customers.

Then on March 21, Mr. President, three panels come before the committee. This is getting a little lengthy. I do not think I will read every single one of these.

Decker Anstrom, from the cable industry, they support telecommunications legislation because the cable industry is ready to compete.

Roy Neel agreed with Anstrom. He is with the U.S. Telephone Association. He agrees that cable regulation repeal would allow for investments incentive.

Richard Cutler testified that the 1992 Cable Act had a devastating effect on small cable operators.

Bradley Stillman said that the 1992 Cable Act resulted in lower programming and equipment prices for consumers.

Weighing in that in fact the Cable Act of 1992 did work.

Gerald Hassell stated that true competition will only develop if both cable and telephone survive and flourish.

I happen to agree with that. I think if we are to have competition at the local loop, we have got to make sure we have two lines coming in.

One of my problems with this legislation is it allows acquisition of cable in the area by the telephone company. You folks out there right now in your households, you have a cable line coming in; you have a phone line coming in. You may not have both for long. You may have one line and only one opportunity to choose. That is not my idea of competition.

Panel No. 2.

Bertram Ellis testified that the local ownership restrictions no longer serve the public interest. He said that allowing local multiple ownership will permit new stations to get on the air that would not otherwise be able to survive. He also stated that local marketing agreements—joint venture between broadcasters—.

Et cetera, et cetera. Open it all up. Let us get rid of the restrictions. I do not care if they own 50 percent of the market, 100 percent of the market. I do not care who controls. Just let the flow of the cap determine the public interest.

There is no public interest here involved any longer. We do not care who controls the information, who controls the stakes, who controls the radio, the newspaper.

Mr. President, again, as I said at the start, this is about information. It is about communication. And it does matter who controls it. It does matter if we have one single individual controlling a significant portion of the local market, controlling our access to information. It does matter. There is a consumer interest.

I am an advocate of deregulating the telecommunications industry. I do not know that I am, but I may be the only Member of Congress who can stand here and say that I signed a bill in 1986 that deregulated the telecommunications industry in Nebraska, that removed the requirement of them to go to the local public service commission for rate increases because I thought, and believe still, it would free up capital and they were in fact just spending a lot of money on lawyers and not really serving the public's interest requiring the companies to come forward. So I am an advocate of deregulation. But I also believe there are times when we need to declare and protect the public interest. And I do not believe in many cases this piece of legislation does that. I have already heard people come to the floor and say the best regulator is competition.

That is not true, Mr. President. If you want to get goods and services delivered in the most efficient fashion, competition does that. That is true. If you are trying to get goods and services at the highest quality and lowest price, competition is the best way to get the job done.

However, competition is not the best regulator. The only time we should be regulating is when we say we have the public interest in doing this. There is no other way of getting it done. The market is not going to be able to accomplish it. We agree there is going to be cost on businesses to do it. We believe it is a reasonable cost. We measure the cost. We assess the cost. We do not go blindly and say there is no cost to this deal. We understand the costs going in. But we say the public interest is so great that we believe it is necessary to do that. That is the purpose of regulation. Competition is not the best regulator. It is the best way to get goods and services delivered in a highly efficient fashion. But competition, unless you believe, unless you are prepared to come down to the floor and say American public corporations performing for their shareowners and American CEO's performing for their shareowners, worrying about what the analysts are going to say on Wall Street about the value of their stock, facing a decision of laying off 1,000 people that would improve the value of their stock—and make no mistake about it, analysts love cold blooded CEO's. You read it in the paper all the time.

Some CEO just takes over a company, reduces the force by 20 percent. What do the analysts say? "Buy the stock; this guy is doing the right thing." So they are rewarding the downsizing, they are rewarding the cutting of the employee base.

Does it improve the productivity of the company? Absolutely. Does it make the company more competitive? Absolutely. Make no mistake, it has a devastating impact upon those families, upon those individuals who work for the company.

We do not find, I think, any evidence that CEO's are heartless, but when they are out there trying to perform for their share owners, they are not trying to satisfy some public interest, they are trying to satisfy the interest of people who own shares in their stock.

On that same day, Preston Padden advocated deregulation; Jim Waterbury said retain some ownership rules; on panel three they had Scott Harris testifying on behalf of himself, not the FCC, and Eli Noam, an expert in telecommunications. The two individuals debated a section of our telecommunications law called 310(b), which is foreign ownership. That is enough. That should give people some sense of what went on.

There were three hearings—three hearings, Mr. President. Three hearings that were held, four if you include the statements made by the majority leader, the chairman of the House Commerce Committee, and the chairman of the Subcommittee on Telecommunications. There were three total hearings, and I do not believe that the sum and substance of those hearings justifies the conclusion that the American people overwhelmingly back this particular piece of legislation.

Mr. President, I was on a trip this past week, a trip with the Intelligence Committee on narcotics. We went to Colombia, Peru, and Bolivia. One of the places I went was down in the Amazon River Basin on the Ucayali River. I went to church on Sunday, to mass actually, more appropriately, a Catholic

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church in Pucallpa, Peru. It just happened that Sunday was celebration of Pentecost. Being a good Christian man, I go to church regularly, but I must confess, I did not remember all the details of what Pentecost meant. I listened carefully. Just by coincidence, the service, the Pentecost is about communication. The prayer of Pentecost is that we appeal to the Holy Spirit to come and fill our hearts with his love. That is the appeal.

The priest that Sunday said to the congregation that the tongue is the most powerful organ in the human body, that it delivers the word and a word can unite us, it can divide us, it can cause us to love one another, it can cause us to hate one another. The word coming from God can change our life. The word coming from human beings can inform us, change us and can cause us to reach all kinds of conclusions.

That is what this debate is about, Mr. President. You can turn on the news tonight, you can pick up the newspaper in the morning, and you watch and read what is going on. These people have the control over what they are going to put on the air, what they are going to put in the newspaper, what they are going to have in the form of serving up information to you and me. It is about power, Mr. President, power to do what they want to do.

Again, I am not against deregulation, I am not against changing the 1934 Communications Act, but this piece of legislation is being driven by a desire of corporations to do things that they currently are not allowed to do.

I also brought down here this morning some additional things. I do not know if the managers want to speak. I will be glad to yield or keep going and read some things that the press has said about this whole process.

I am not an apologist of the press. Sometimes they get it right, sometimes they get it wrong. Form your own impression. This is people observing this whole process, and this is what they say about it. Let us see if you hear anything about the American people coming here in airplanes and buses and demonstrating out front with placards, "Deregulate the telecommunications industry."

Here is one from Ken Auletta, "Pay Per Views," in the New Yorker, June 5, 1995. Mr. Auletta says:

The hubris was visible at the House Commerce Committee briefings, on January 19th and 20th. Held in the Cannon Office Building, they were closed to the press and to the Democrats. At dinner the first night, Gingrich was the featured speaker, and he took the occasion to attack the media as too negative and too biased, and even unethical. After the speech, Time-Warner's CEO, Gerald Levin, rose and gently rebuked Gingrich for being too general in his remarks. Surely Gingrich did not mean to tar all journalists with the same brush—to lump, say, Time in with the more sensationalist tabloid press? "I hope you don't mean all of us," Levin concluded. "Yes, I do," Gingrich is reported to have replied. "Time is killing us." And, according to several accounts, he went on to say that he had been particularly incensed by Time's account of his mother's interview with Connie Chung, of CBS . . .

[O]thers found it chilling that the Speaker would press the CEO's to have their journalistic troops hold their fire. "We're at greater risk now of that kind of pressure having an impact."

The interviewee went on to say:

"Traditionally, there has been a separation between news and corporate functions. Given the consolidation, you may have more instances where the top business executives, who have many corporate policy objectives, may find it tempting to impose control over their news divisions to advance corporate objectives." . . .

Another observation is from "The Mass-Media Gold Rush," Christian Science Monitor, Jerry Landay, reporting June 2, 1995:

The players are limited to the cash-rich: The regional phone companies, networks and cable companies, and conglomerates such as Time-Warner. Smaller ownership groups, such as local television stations, are distressed. They expect the balance of power to swing to the cash-rich networks, which will gobble up many of them . . .

It goes on to say:

To influence the House legislation, legions of lobbyists swept across Capitol hill, with bags of campaign cash. Over the past 2 years the communications industry has handed out some $13 million. Republican lawmakers literally invited industry executives to tell them what they wanted. They're getting most of it.

The next one is from Congressional Quarterly Weekly. The headline is: "GOP Dealing Wins the Votes for Deregulatory Bill."

After doling out legislative plums to broadcasters, phone companies and carriers, top Republicans on the House Commerce Committee won bipartisan backing for a bill to promote competition and deregulation in the telecommunications industry. The committee's leaders—Chairman Thomas J. Bliley, Jr., R-VA, and Telecommunications and Finance Subcommittee Chairman Jack Fields, R-Texas—engaged in a lengthy give-and-take with committee members and telephone company lobbyists over the bill's rules for competition in local and long-distance phone markets. . . .

The intra-industry horse trading left consumer advocates feeling frustrated and ignored on the sidelines. . . . The biggest winners at the markup were broadcast networks, media conglomerates and cable companies.

The next one is from the New York Times, Edmund L. Andrews. Headline: "House Panel Acts to Loosen Limits on Media Industry." Dateline, May 26, 1995:

Rolling over the protests of several Democrats, the House Commerce Committee voted today to kill most cable television price regulation and lift scores of restrictions on the number of television, radio and other media properties a single company may own. . . .

ABC, NBC and CBS and other large broadcasters like the Westinghouse Electric Company, the Tribune Company and Ronald O. Perelman's New World Communications Group all lobbied for sharply increasing the number of television and radio stations a company could own nationwide. . . .

But industry lobbyists have seldom met more receptive lawmakers. Committee Republicans have held numerous meetings with industry executives since January, some behind closed doors, at which they implored companies to offer as many suggestions as possible about the ways Congress could help them.

Next, an article that appeared in the Washington Post, a longer article that I will take pieces from, written by Mr. Mike Mills on the 23d of April, 1995:

The Bells—the folks who bring you local phone service—like to play political hardball, and they have been remarkably successful at it. This year, the Bells stand a very good chance of winning most of the prize they've sought for the last decade: Freedom from U.S. District Judge Harold H. Greene. . . . If they get what they want, the Bells can claim a place among history's most powerful Capitol Hill lobbyists, ranking them with the oil industries of the 1970's and the steel trusts of the turn of the century. . . .

All that lobbying costs money. According to the Federal Communications Commission, the Bells' individual phone companies spent $64 million on State and Federal lobbying expenses in 1993 and $41 million in 1992. Bell lobbyists themselves say their annual budget for influencing Congress has been $20 million a year in recent years, but has dropped to half of that this year. . . .

It goes on and on:

"Right now, the doors to the candy stores are wide open," said Brian Moir, who heads a coalition of business telephone users fighting the Bells. .

These are the customers, Mr. President, make no mistake about it. These business users are the customers. These are not the companies providing the service. These are people using the service. This man says, ". . . the doors to the candy store are wide open."

It continues:.

The Bells figure, "Why focus on one thing? Just go in with a frontloader." They're covering the waterfront. And why not? Moir estimates that if States' regulatory powers are limited, the Pressler bill will raise the typical Bell residential telephone bill by $3 to $6 a month. For the companies, that would raise it at least $24 billion over 4 years.

An editorial in the Baltimore Sun called "Communicating Again," April 3, 1995:

Still, there are hundreds of billions of dollars at stake, and the lobbying is as fierce as Washington has seen in many years. Though the rivals like to make their cases in terms of what's best for the consumer, the quarrel is really over who gets a head start in capturing market share.

No one can deny that that is true.

Edmund L. Andrews, "Big guns lobby for long-distance; insiders are trying to influence bill," Raleigh News & Observer, March 28, 1995:

With so much at stake, and so little to pin on labels of right and wrong, the various factions are seeking a personal edge by throwing into the fray as many people with friends in high places as possible. All of which made telecommunications as much of a bonanza for lobbyists this year as health care was last year. "Everybody in this town who has a pulse has been hired by the long-distance coalition or the Bell operating companies," said Michael Oxley, R-Ohio, a member of the Commerce Committee. "It's just amazing. . . ."

Michael Ross with the Pittsburgh Post-Gazette, January 20, 1995. Headline: "Gingrich Defends Book Deal;

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GOP Beats Murdoch." I am sorry I brought in all this. This article is talking about this bill:

Besides Murdoch, there were 10 other executives at the Capitol session, including Thomas Murphy of Capital Cities/ABC; Robert Wright, NBC; Howard Stringer, CBS; Bill Korn of Group W; and John Curley of Gannett. Gingrich was to address a private dinner last night for the communications firm chiefs in the Cannon House Office Building. . . .

Gingrich said the meeting yesterday was closed because "we want their advice on how the United States can be the most competitive country in the world, and we would just as soon not have them give advice with the Japanese and Europeans listening."

I do not believe it is the Japanese and the Europeans they were trying to keep out.

GOP organizers sought to keep the meeting secret, excluding notice of the events from the official daily calendar. But word leaked out from the executives, prompting protests from consumer advocates and from the committee's former Democratic chairman, Rep. John Dingell of Michigan, now the ranking minority member.

The last one is a piece that appeared in the Washington Post, again Mike Mills:

Consumer advocates yesterday protested plans by House Republicans to hold 2 days of private meetings with top communications executives that will feature a dinner with House Speaker Newt Gingrich. . . .

Media will not be present so Members and chief executive officers of various companies. . . . have honest and informative discussions."

Boy, if that is not a keyword to telling you to hang on to your billfold I have not heard one.

"What policies can the Congress promote or repeal that would help your company to be more competitive and successful domestically?" the letter asked. "And, second, what obstacles does your company face when trying to do business abroad?"

I do not mind in general saying to any company in America, is there anything we are doing we should not be doing, anything we are doing with regulations or rules that do not make any sense at all? Lord knows, we have lots of things we do to small business and big business alike that add no value at all to the public interest, that you really cannot defend it all, have been around a long time, and you scratch your head trying to figure out why they are even there.

But that is not this invitation. This does not say after you established what the public interest is, is there anything here you would like to get out of the way that makes no sense at all; is there any nonsensical regulation? This did not add any qualifier in the public interest.

This merely says is there anything out there adding cost to your business that you would like to get rid of? It would be like me saying, "I would like to drive about 90 miles an hour, would that be OK? Can you get the law of Nebraska to let me drive my automobile 90 miles an hour? I find that a major inconvenience. I like to drive fast. Why don't you have a meeting and ask people driving automobiles what they think about that? Maybe we can change the rules and regulations to accommodate them as well."

Mr. President, I will wrap this up by quoting from an article, I believe it was David Sanger of the New York Times. The article describes the conflict between the United States of America and the Japanese over automobiles. It was assessing the impact of, I think, the correct decision by the Trade Representative to say to the Japanese, "It is time to open up your market and let our parts, in particular, be sold and loosen the restrictions so we can begin to sell automobiles in Japan." It was trying to measure the impact. It interviewed a man who was the trade minister from Indonesia, I believe.

You know, we are worried about Japan and the United States. They are the big ones. They are the big elephants in this jungle. And they have a saying in Asia. They say that when the elephants fight, the grass gets trampled. But even worse, they said, is when the elephants make love. That is what we have here, Mr. President. We have a real lovefest going on.

Corporations have basically all signed off on this deal. They have had the opportunity to look at the language. They have had the opportunity to examine the details, and they are saying it looks pretty good to them. I say it is time for us to come to the floor to debate this. I hope we are, in fact, able to enact legislation. I intend and expect to support it. I cannot support it in its current form, but I want the American consumer to be heard on the floor of the Senate. I want the interests of American households to be considered and the interests of the average American citizen to be considered when this piece of legislation, which is important, is being debated.

I yield the floor.

Mr. DORGAN. What is the pending business?

The PRESIDING OFFICER. The pending measure is amendment No. 1258 offered by the managers of the bill.

Mr. DORGAN. This is the managers' amendment.

The PRESIDING OFFICER. Is there further debate on that amendment?

Mr. HOLLINGS. We can go right ahead with the Senator's amendment.

Mr. PRESSLER. If it has not been laid aside, and if it is proper at this point, we will lay that amendment aside so that the Senator from North Dakota can offer his amendment.

I ask unanimous consent that the managers' amendment be laid aside.

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

The Senator from North Dakota is recognized.

AMENDMENT NO. 1259

(Purpose: To require certain criteria upon the designation of an additional Essential Telecommunications Carrier)

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

The PRESIDING OFFICER (Mr. KYL). The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 1259.

The amendment is as follows:

On line 24 of page 44, strike the word "may" and insert in lieu thereof "shall".

Mr. DORGAN. Mr. President, in the telecommunications bill there is a provision with respect to universal service that describes certain conditions in which the State designates additional essential telecommunications carriers that may impose certain requirements. I think it is sufficiently important to say the State shall impose those requirements. I would like to explain why this is important to me and why I think it is important to rural America.

Before I do, let me comment on a couple of broader points about this legislation. Clearly, there would never be a circumstance where legislation affecting the telecommunications industry would be moving through the Congress without their being an intense interest by the telecommunications industry. The fact is that without congressional involvement in trying to set some new rules for competition, the industry itself is out creating the rules.

That is why universal service legislation is necessary. We must establish some guidelines about where we move in the future and what is in the public interest as we do that.

I come from a rural State. I know there are a lot of people in this Chamber who worship at the altar of competition and the free market. That is wonderful. But, I have seen deregulation. I have seen the mania for deregulation that does preserve for some people in this country wonderful new opportunities of choice and lower prices: Example: Airline deregulation. There was a move in this country and in these Chambers for airline deregulation, saying this will be the nirvana. If we get airline deregulation, Americans are going to be better served with more choices, more flights, lower prices, better service.

Well, that is fine. That has happened for some Americans but not for all Americans. Deregulation in the airline industry has had an enormously important impact if you live in Chicago or Los Angeles. If you want to fly from Chicago to Los Angeles you check the official airline guide and find out what flights are offered. You have a broad range of choices, a vast array of carriers competing in a market that is densely populated, where they have an opportunity to make big money. In this market, there is intense competition for the consumers dollar in both choice and price.

But I bet if you go to the rural regions of Nebraska, and I know if you go

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to the rural regions of North Dakota and ask consumers, what has airline deregulation done to their lives, they will not give you a similar story. They will not tell you that airline deregulation has been good, providing more choices and lower fares. That has not been the case.

In fact, airline deregulation has largely, in my judgment, hurt consumers in rural America. We have fewer choices at higher prices as a result of deregulation.

For that reason, when we talk about deregulation and setting the forces of competition loose in order to better serve consumers, we need to understand how it works. Competition works in some cases to an advantage of certain consumers. In other cases, it does not.

That is why when the telecommunications legislation was crafted I was very concerned about something called the universal service fund. For those who don't know, I want to explain what the universal service fund is.

It probably stands to reason that it is presumably less expensive to put telephone service into New York City when you spread the fixed costs of the telephone service over millions of telephone instruments; less expensive to do it there than to go into a small town of 300 people that is 50 to 100 miles from the nearest population center. How will you decide how to spread the fixed costs of telephone service over 300 people? The fact is, you have a higher cost of telephone service in rural areas of our country.

We have always understood, however, that a telephone in Grenora, ND, is just as important as a telephone in New York City, because if you don't have the telephone in Grenora, the person in New York City cannot call them, and vice versa.

The universal service nature of communications is critical. The presence of one telephone instrument makes the other telephone instrument, no matter where it is in this country, more valuable.

That is why we have, as a country, decided that an objective of universal service makes good sense. We have generally tried to move in that direction to see that we use a universal service fund to even out the costs and the price to the consumer.

Therefore, even in the higher cost areas, the lower populated, more rural areas, we are able to bring the cost down to the consumer with a universal service fund by moving money into those areas to try to help keep prices down for the consumer. Therefore, consumers will be able to afford this service and we will have a more universal nature of that service.

Well, in this legislation, Mr. President, we understood that there will be substantial competition in many areas of telecommunications. Take my home county of Hettinger County, ND, a very small county, several thousand people, about three towns, the largest of which is 1,200 or 1,400 people, no one will be rushing in to provide local telephone service in Hettinger County.

This is not a case where you fire the gun and at the starting line you have eight contestants lined up to find out who can win the commercial battle to serve the telephone needs of that small rural county. You might, however, have someone decide to come in and serve one little town in that county, because maybe it would be worthwhile to serve that little town, but only that town.

If they bring telephone needs to that town and take the business away from the existing service carrier, the rest of the services would be far too expensive and the whole system collapses.

For that reason, in this legislation we described a condition in which, if someone comes in and decides to serve in one of those areas, one of the conditions is that they would have to serve the entire area. They would be required to serve the entire area as a condition of receiving these support payments from the universal service fund.

Then the bill also said that in designating an additional essential telecommunications carrier to come in and compete in a rural area, aside from requiring they have to serve the entire area, they cannot come in and cherrypick and pick one little piece out.

Aside from that, the bill said that the States may require there be a designation; that the designation would be: First, in the public interest; second, encourage development of advanced telecommunications services, and third, protect public safety and welfare.

My universal service amendment very simply says that provision of law shall be changed from "may" to "shall." In other words, the States shall require that there be a demonstration of those three approaches.

I think it is very important that those who live in rural America, who are not going to bear the benefit of the fruits of competition, are given protection.

That is the purpose of my offering a universal service amendment. This amendment is supported by the National Telephone Cooperative Association, National Rural Telecom Association, the USTA, Organization for Protection and Advancement of Small Telephone Companies.

They understand, like I understand, that the chant of competition is not a chant that will be heard in the rural reaches of our country. We are simply not going to see company after company line up to compete for local service in many rural areas.

If that does not happen, and it will not, we need to make certain that the kind of telephone service that exists in rural counties will be the kind of telephone service that brings them the same opportunity as others in the country will be provided.

We should make sure that we have a buildout of the infrastructure, so this information highway has on ramps and off ramps—yes, even in rural counties of our country.

If we, in the end of this process, finish the building out of an infrastructure in telecommunications by having a continued, incessant wave of mergers and consolidations into behemoth companies that are trying to fight to serve where the dollars are, big population centers, affluent neighborhoods, but decide to leave the rural areas of the country without the build-out of the infrastructure and without the opportunities that they should have, we will, in my judgment, have failed.

Mr. President, while I am on my feet I would like to comment on a couple of other points in this legislation. I supported the legislation coming out of the Commerce Committee and indicated then that I had some difficulties with several provisions in it.

One concern I have deals with the provision in the legislation on the subject of ownership restrictions.

It is interesting that we have in this bill the inertia to try to provide more competition, and then we, in this attempt to say to those who want to own more and more television stations, yes, we will lift the barrier here, we will change the rules so that you can come in and consolidate and buy and own more television stations.

That does not make sense to me. That is moving in the opposite direction. The telecommunications bill is about competition. I do not think we should say it is fine with us if one group or consortium decides to buy more and more television stations and we lift the ownership limit from 25 to 30 percent—some say to 50 percent—of the audience share. I think that flies exactly in the opposite direction of competition.

Consolidation is the opposite of competition. I intend to offer an amendment on this and hope we will preserve the opportunity to decide what is in the public interest with the Federal Communications Commission. Instead of having an artificial judgment in this bill that says let us lift the restrictions and allow people to come in and buy more and more television stations into some sort of ownership group. I do not think that comports at all with the notion of competition. I am going to offer an amendment on that at some point.

I would like to talk also about the issue of the role of the Justice Department. I know Senator STROM THURMOND and others are interested in this subject. I intend to offer an amendment on the subject of the role of the Justice Department in this bill. The question of when the regional Bell Companies are free to engage in competition for long distance relates to when there is competition in the local service area, in the local exchange. When will the Bell Service Companies open themselves to local competition? When they do, when there is true local competition, then they have a right

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and ought to be able to compete in the long distance markets.

The problem is that in the telecommunications bill, the role of the Justice Department—which ought to be the location of where the judgments about whether or not there is competition in the local exchanges—is rendered a consultative role. The Justice Department is defanged here, and I do not think that ought to be the role of the Justice Department. Again, I think this flies in the face of all of the discussions I heard about the virtues of competition. If we are talking about competition being virtuous, then let us make sure competition exists before we release the Bell Companies to engage in competition with the long distance industry.

How do you best determine competition exists? With the mechanism we have always used to determine it. The antitrust judgments and evaluations by the Justice Department. It does no service, in my judgment, to the American people to decide to take out the traditional role of the Justice Department in preserving and protecting the interests of competition with respect to this issue when the Bell Companies will be set loose to engage in competition in the long distance business. So I also intend to offer an amendment on that issue. That is a critically important issue.

In conclusion, I think there is much in the telecommunications bill that is useful, valuable and will provide guidance to the direction of the telecommunications industry and its service to the American people, but this legislation is not perfect. This legislation has some problems. I pointed that out when I supported it out of the Commerce Committee.

I have a great friend on the floor, Senator HOLLINGS, the ranking member on the Commerce Committee, who I think is one of the best on telecommunications issues. I have been pleased to work with Senator PRESSLER, who I think has done a remarkable job in bringing this bill to the floor as well. But let us not say, "Now, gee, this bill came from high on stone tablets and cannot be changed. We cannot accept any changes here." I think universal service is one amendment we can accept, but there are going to be some big changes proposed, some of which will have merit.

You can say, "This bill is carefully balanced on the scale. We read the meter with expertise and just cannot make changes." It is like the argument of a loose thread on a $20 suit. You pull the thread and the arms fall off. We have people coming here and saying if this amendment is agreed to, the coalition breaks apart, the balance of the bill somehow is skewed, and the bill will fail.

We must, in the intervening days as we debate this legislation, take a hard look at a whole range of issues. The Justice Department role, yes. I have not mentioned the foreign ownership issue, but that is also of concern to me. The concentration of ownership in this country of television stations, as an example. Those are all issues I think are of great concern and we ought to weigh carefully.

I hope the Chair and the ranking member on this legislation will entertain constructive and useful proposals to strengthen and improve this legislation in the public interest of this country.

Mr. President, I have sent the amendment to the desk. I believe this amendment may be acceptable. In any event, at this point, I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Right to the point, Mr. President, the distinguished Senator from North Dakota has a good amendment. I should make a couple of comments, though, with reference to his references and those of my friend, the distinguished Senator from Nebraska, who has been very participatory, and a cosponsor of the legislative reform in communications reform.

With respect to the general picture here on communications, the Senator from North Dakota is right. We do think this is balanced, that it cannot be balanced any more, that this bill did come down from on high and we are not going to accept any amendments.

That is out of the whole cloth. I learned long ago I could not pass a communications bill by itself, that the Democrats could not pass a communications bill by itself and the Republicans could not pass a communications bill by itself. We really have to work this out in a bipartisan fashion. Senator PRESSLER has given us the necessary leadership and I am committed to working with him in a bipartisan fashion. That maybe I have created an atmosphere where there will be no amendments and we know it, the opposite is the case. We are begging Senators to come, as we begged the Senator from North Dakota to hasten on and present that amendment.

A word should be said about the industry and the service that we have because comments have been made about all of these entities involved, and there are 30-some. People should understand. We have the long distance industry, the cable industry, the wireless cable, the regional Bell Operating Companies, the independent telephone companies, the rural telephone companies, newspaper industry, electronic publishing industry, the satellite industry, the disabled groups, the broadcast industry, electric utilities, computer industry, consumer groups, burglar alarm industry, telemessage industry, pay phone industry, directory publishing industry, software industry, manufacturers, retail manufacturers, direct broadcast satellite industry, cellular industry, PCS, States, public service committees, commissions, the cities, the Federal Communications Commission, the Clinton administration, the Department of Justice, the Secretary of Education—all the public entities.

Communications is a very splendid thing. With respect to not wanting to open up all the markets, I had a good friend who took a poll with what you call a peer review group, testing thing, what do they call that thing when they get them all together?

Mr. DORGAN. A focus group.

Mr. HOLLINGS. A focus group. Thank you, Senator.

They had a focus group in Maryland last week and 90 percent of them have never heard of the Contract With America. That is all I heard about since January. In fact, it started in November, I think. But they still had not heard of the contract. You can bet your boots the Senator from Nebraska is right; people are not storming the doors for a communications bill. In fact, with all of these entities calling on the Senators and having to make up their minds, yes or no, the Senators from the South say let that communications bill go, let us not call it up now, let us delay it, we did last year because there are so many tough decisions to be made. But on the information superhighway, Congress and Government are squatting right in the middle of the road and the technology is rushing past it.

The information superhighway is there. We have been a hindrance, obstacle to it, and what we are trying in this balanced approach and bipartisan approach is to remove the obstacle of Government, with the view of the Senator from North Dakota that universal service continue. He is right on target. I have been very much concerned having experienced the airline deregulation. So we want to make certain that they can come in and render this service. In that light, our communications system has been the best in the world. Yes. The Bell Operating Companies, because these parties are so competitive—I have not necessarily been in love with either side because it is hard—they are really individually competitive. But after all, AT&T, long distance, has to file tariffs. They are controlled by the public, and operate in the interest of the public convenience and necessity. Every one of the Bell Companies have to respond, not just to the FCC but to the individual public service commissions. They operate on the basis of public convenience and necessity. They have a monopoly, yes, but their profits are controlled, and everything else.

If there is anything operating as a large corporate entity in the interest of the public, it has been the Bell Operating Companies. They have been most responsive. We have as a result the finest communications system in the world. Let us maintain it. On universal service, let us extend it. Let us not be in any way doubtful about it because the lead-in word that goes into this particular requirement about another universal service carrier is "shall."

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The language reads, "If the commission with respect to interstate services designates more than one common carrier as an essential telecommunications carrier, such carrier shall meet"—"shall" meet. That is the law as we now propose it. But later on we say the State "may" check off these things that are highly important. The truth is they "shall." And I hope we can accept the amendment of the Senator from North Dakota and show that we did not think the bill came down from on high.

Let us hear from the chairman.

Mr. PRESSLER. Mr. President, we accept the amendment of the Senator from North Dakota on this side of the aisle. I want to commend him for his work on this subject. He is a friend of mine, and an outstanding leader in this area. Let me say that this subject of serving the smaller cities and rural areas is very important. I have spoken frequently on that in our committee.

We are prepared to accept this amendment. We urge other Senators with amendments to bring them to the floor. We are ready to go here on the floor.

Mr. STEVENS. Mr. President, will the Senator yield at that point?

Mr. PRESSLER. Yes.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I know that the Senator represents areas similar to mine, the author of the amendment. I know that he wants the States to have powers and to change the word "may" to "shall," as a mandate to the State. What worries me about the Senator's amendment is not that it is saying that the States shall require a finding by the authorized agency, but that States may require additional considerations to be met. The word "may" in this bill right now gives the State the authority to determine what findings shall be made by its designated agency. By turning this to "shall" I wonder if we are limiting the States' discretion in terms of the findings that shall be made by a designated agency before it permits an additional carrier.

Mr. President, I do not want to argue it now. I agree with the manager of the bill to take the amendment. But I do want the Senator to know, my good friend, Senator DORGAN, that I want to look at this in conference. I believe this section is going to have to be revised in conference anyway. It is in a different form than the House bill, as I understand it. But I do think that we should not mandate States as to what their findings must be before they can deal with additional carriers. I believe that smaller States in particular would prefer to have more flexibility.

I am just wondering out loud if the Senator's amendment is fixing this so that the State has no alternative once it makes those findings to permit the additional carrier, and what the impact of the Federal law will have on the State should the State legislature attempt to state that its agency must make additional or alternative findings in this regard.

Again, I conferred with the managers of the bill. I think we understand where the Senator is coming from. We want the States to have authority. But I really think he is confining the authority by changing it to "shall." But I do believe the States might want to—any State—might want to have other standards other than those stated in this bill. I wonder if the Senator might have us look at that.

Mr. DORGAN. If I might respond, I too respect the point raised by the Senator from Alaska. My intention would not be to prohibit States from adding additional requirements. My intention is that this would represent a set of requirements at a minimum that we should expect to be met. But to the extent a State would wish to add additional requirements, I do not believe that would be prohibited with this language. This language establishes the minimum requirements that must be met. That is the purpose of the universal service amendment.

Mr. STEVENS. Mr. President, as I stated, I am not going to ask for a rollcall vote. I am not going to object to the change. But I do think that when we get to conference we are going to have to figure out how we give States greater flexibility. I do not think we ought to have a mandate that indicates that the States must find Federal requirements are met before it can designate an additional essential telecommunications carrier, in that it cannot add any additional State requirements, or it cannot reduce these designated findings and substitute others that might be more applicable to its situation with regard to size and competition and whatever else that might be involved.

It does seem to me that we ought to be very careful about delineating to a State what findings it must make with regard to the designation of common carriers as essential telecommunications carriers. We are basically talking about the findings that are necessary to deal with universal service. The concept of that was really borrowed from the essential air service approach, and the way it is done actually, as I pointed out to the Senator from Nebraska last night, reduces the costs of universal service about $3 billion a year. Those services are provided by those who are users of this national system. This allows the States to designate additional carriers. I would not want the restrictions that are applied in this bill to lead to a lack of flexibility as far as the States are concerned to designate additional carriers in circumstances which might be unique.

I could go on at length about some of our unique situations. I do think we ought to have flexibility for the State to manage it, provided that we understand that the impact of the multiple essential carriers is going to be that there be a change in the concept of universal service.

The Senator's amendment deals with universal service concepts as modified in this bill, and I would like to see the States have as much flexibility as possible, keeping in mind that there is a built-in limitation in the Senator's amendment that will reduce the availability of universal service in rural States.

I hope that the Senator understands what I am trying to say. I agree to accept the amendment, but I do think we have to find some way as we go further to say that this does not prevent the State from modifying these findings in the event its legislature determines that other standards are more adaptable to its circumstances with regard to the providing of universal service within its boundaries.

Mr. DORGAN. If the Senator will yield for one additional point, Mr. President, I understand what the Senator is saying, and I do not want to prevent anything being done to respond to peculiar or unique circumstances or when a State determines that something else might be necessary with respect to these kinds of requirements. It is not my intention to interrupt or to prevent that.

I do think, however, when we are talking about the use of the universal service fund, the requirement that this result in the build-out of the telecommunications infrastructure even to rural areas, boy, I think that ought to be a national requirement.

Those of us who come from rural areas want to say if you are going to certify a new essential telecommunications area in an area that would be eligible for universal service funds, we want that certification to be based on a couple of themes that they think are important, one of which is this ought to result in the build-out of the infrastructure in rural areas. We know that build-out will occur in urban areas because that is where the money is, and we are just saying we want that same opportunity to exist in rural areas.

But I am not suggesting that these three tests be limited. I think that States may well find they have unique circumstances and want to add additional tests or additional requirements, and I do not in any way want to prevent that. So I will look forward to working with the Senator from Alaska as we go to conference on this legislation.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I tried to go into this a little bit last night, and I do not know whether this is the time now, but I just point out to my friend that the April issue of the bulletin known as Personal Communications contains an article that mentions Donald Cox, who is the former Bellcore wireless leader who is now at Stanford. He has calculated that digital-based station technologies will lower capital costs for wireless customers to $14 compared to the current cellular cost of $5,555.

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What it really means is we have the possibility of moving into a new domain as far as digital radio is concerned that will deal with telecommunications competing with telephone companies. One of the things in this amendment is that we will now require that the State must find that there will not be a significant adverse impact on users of telecommunications services or on the provisions of universal service.

I question whether at the time of the transition into these new technologies a State should have to make findings that are based upon the use of the old technology. That is one of the problems. If you lock a State into findings, I think you may hamper the transition to less costly services and, of course, that is where I am coming from. That is why I support this bill. I think it will lower the cost ultimately of service to rural areas by bringing in additional providers of service. It should not be tied to the old wire services that we have relied upon in the past.

Mr. President, I do not have any opposition to the suggestion that we adopt the Senator's amendment, but I do want to serve notice that in conference, I may wish, because of the amendment, to modify the whole section.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER (Mrs. HUTCHISON). The Senator from Nebraska.

Mr. KERREY. Madam President, I have no objections to this amendment. I would like to point out, the distinguished Senator from North Dakota, as well as the chairman and ranking member and the distinguished Senator from Alaska and others, worked very hard to try to craft this particular title and this particular section of title I so as to make certain that areas that are not likely to benefit from competition will continue to be served with the same high quality service that they are currently receiving.

This particular provision is a recognition, and I think most do recognize, that competition all by itself will not work and that we do have to allow competition to determine many things. But this particular section I think has been very carefully put together, and it indicates how an essential carrier is designated. It describes the obligations of that particular carrier. It describes how we set up a multiple essential carrier. It describes resale enforcement and interchange of principles.

Madam President, earlier when I made a statement, my staff tells me that I made a mistake at the beginning. If I did, I apologize. I was pulling a quote from the chairman, and I do not know if I said Senator HOLLINGS or Senator PRESSLER, but it was the chairman's quote last night, and I do not again mean to be intentionally confrontational when I say that statement that says, "The overwhelming message we received was that Americans want urgent action to open up our Nation's telecommunications markets," what we are doing, in fact, is what the distinguished Senator from North Dakota described and the Senator from South Carolina, Senator HOLLINGS, described as well. We are trying, with this law, to work our way into a competitive environment and create a structure that will enable competition to occur in a fashion that is minimally disruptive, but it will be disruptive.

Title I describes not just the transition to competition in the universal service, but it lays out all the various interconnection requirements. It describes separate subsidiary safeguard requirements. That is a structure that is offered as a protection. I believe the Senator from South Carolina in particular has been concerned about that. It describes foreign investment and ownership reform, and infrastructure sharing. Title I describes the removal of restrictions to competition, describes how that is going to occur, how we remove entry barriers.

There is limitation on local and State taxation of satellite services. I might point out that for those concerned about putting a mandate upon the State, indeed, we are intervening with the State regulatory mechanism. This legislation intervenes and says—and I know the Senator from Alaska understands that we are intervening, and we are saying you cannot do rate-based rate of return regulation; you are going to go to price caps. You have a range of motion under price caps.

But we all need to understand what price caps do. It essentially moves us in a direction where the market will determine what the price is going to be. It is a much different kind of regulatory scheme than we have right now. There are many States, I guess 10 or so, on a price cap system of regulation. This would take the other 40 along. I do not object to that. I think it is a fair and reasonable thing to do. But it is a relatively dramatic action to come to the State level and say that we are going to require you to regulate in this fashion, and we say there is a limitation on how you can tax your satellite services, and so forth.

Title I, as we remove the restrictions to competition, does lots of other things that I will look forward to describing at a later date.

Madam President, as I said, I do not object at all to the change asked for in this amendment.

Mr. PRESSLER. I urge adoption of the amendment, Madam President.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

So the amendment (No. 1259) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DORGAN. Mr. President, today the Senate begins consideration of comprehensive telecommunications legislation, S. 652, the Telecommunications Competition and Deregulation Act of 1995. This legislation has been incubating in the Congress for a number of years and throughout the past few years, the Senate has appeared to be on the brink of passing this landmark legislation that would reform which is arguably the most dynamic and fast growing industry in our economy—telecommunications.

The underlying agenda of this legislation is to promote competition in all areas of telecommunications. We already have a competitive long distance industry and there is some competition in cellular service throughout the country. Clearly, telecommunications competition has had a positive impact. Since the AT&T breakup in 1982, competition in the long distance industry has lead a reduction in long distance prices and it has spawned the deployment of four nationwide fiber optic networks—the backbone of the information superhighway.

This legislation attempts to promote competition in other areas of telecommunications, such as in the local exchange and in cable. As a general proposition, I support this notion of promoting competition. I think competition will lead to lower prices and greater availability of telecommunications services. However, Congress must proceed in caution as we break down barriers and ease regulation.

First, a one-size-fits-all approach to competition in the local exchange may have destructive implications. In large, high-volume urban markets, competition will certainly be positive. However, in smaller, rural markets, competition may result in high prices and other problems. The fact is that some markets; namely, high-cost rural areas, competition may not serve the public interest. If left to market forces alone, many small rural markets would be left without service.

That is why the protection of universal service is the most important provision in this legislation. S. 652 contains provisions that make it clear that universal service must be maintained and that citizens in rural areas deserve the same benefits and access to high quality telecommunications services as everyone else. This legislation also contains provisions that will ensure that competition in rural areas will be deployed carefully and thoughtfully, ensuring that competition benefits consumers rather than hurts them. Under this legislation, States will retain the authority to control the introduction of competition in rural areas and, with the FCC, retain the responsibility to ensure that competition is promoted in a manner that will advance the availability of high quality telecommunications services in rural areas.

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My second concern is that in our drive to deregulate and eliminate barriers, that competition may be impeded. Currently, there are over 500 long-distance carriers that offer service nationwide. Virtually every American has a competitive choice as to what carrier they want to use for long distance services. Long distance rates have reduced by over 40 percent in the past 10 years because of competition. The same choice does not avail itself to consumers with respect to local exchange service.

The second danger we confront in passing this legislation is that we could impede competition where it currently exists. Under S. 652, the regional Bell operating companies [RBOC's] would be permitted to reenter the long distance market. In the early 1980's, the old Bell system was divested because the monopoly in the local exchange seriously impeded competition for long distance services. After nearly 14 years of separation from the long distance market, the RBOC local networks want to compete for long distance services. This legislation will permit that.

The question is not whether or not the RBOC's should be permitted into long distance. The question is under what conditions. Unfortunately, this bill is flawed in that it does not provide for an adequate role for the Justice Department to determine that RBOC entry into long distance services will not harm what is already a successfully competitive market.

I intend to offer an amendment to this legislation that will provide for a role for the Justice Department. It seems to me that given the history of the AT&T breakup and the threat that the local exchange monopolies could use their power to impede competition, the Justice Department must ensure that the appropriate conditions are present before the RBOC's can be permitted to offer long distance services.

In addition, I will offer an amendment that will improve the universal service provisions in the bill. Under the bill as reported by the Senate Commerce Committee, only "essential telecommunications carriers" [ETC's] would be eligible to receive universal service support. The reason is that ETC's would be required to take on the same universal service obligations as the incumbent carriers. I believe that this condition is imperative to ensure that universal service is maintained in rural areas.

However, the bill falls short in ensuring that when a State designates an additional ETC for qualification for universal service support, that the best interests of rural consumers are paramount. Under my amendment, States would be required to ensure that the designation of an additional ETC in a market, that such designation: (a) protects the public interest; (b) promotes the deployment of advanced telecommunications infrastructure; and (c) protects public safety and welfare.

Finally, I have two other amendments that I intend to offer. I intend to offer an amendment that will strike the bill's provisions dealing with the liberalization of broadcast ownership rules and require, instead, the FCC to review and modify broadcast ownership rules on a case-by-case basis. Under my amendment, the FCC would review and modify broadcast ownership rules in such a way as to ensure that broadcasters can compete fairly with other media sources while at the same time protecting localism and diversity of voices in each local market.

Under the bill in its present form, the national television ownership limits would be increased from the current 25 percent viewership cap to 35 percent with permission to increase beyond that amount later. It seems to me that encouraging further concentration in the national media is not a desirable goal and it is my hope that we can correct this provision in this legislation.

Mr. President, the goals of this legislation are laudable. However, I believe that certain changes are necessary and I intend to work with my colleagues to improve the bill and move this important legislation forward.

The PRESIDING OFFICER. The question occurs on the managers' amendment.

Mr. PRESSLER. I move to lay the managers' amendment aside so our friend from Arizona may offer his amendment.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, may I inquire as to the parliamentary situation? The pending business is the managers' package of amendments?

The PRESIDING OFFICER. The managers' amendment has just been laid aside.

Mr. MCCAIN. I thank the Chair. Madam President, I will make some comments and remarks concerning this legislation, and then, if the parliamentary situation allows it, I will begin offering amendments.

I note the presence of my colleague from Alaska, who has agreed that we would take up one of my amendments as soon as possible, and I will be as brief as possible. But I am sure my friend from Alaska understands this is a very complex issue and one which probably, in my view, will have more impact on America than any other piece of legislation that we will consider not only this year but for several years.

Some estimates are that health care reform would have as little as one-third the impact financially on America as this legislation does.

There is no doubt that there are tens of billions of dollars at stake. I personally, Madam President, have never seen an issue in my now 9 years as a Member of this body have such intense and continued and high-priced lobbying. We have as head of one lobbying group a former majority leader of the Senate. We have names who are well known to all of us in Washington. I doubt if there is a single lobbying group inside the beltway that has not had a contract at one time or another to lobby on this issue. All of that is not by accident. In fact, Madam President, it is because the stakes are enormously high here. One phrase, one comma, one or two words in the appropriate place has enormous and significant impact.

So I think this issue should be well debated. I think that there are opposing views as to what this legislation does, but let us not have any doubt about the impact of this legislation on the very future of our Nation. This is all about information and how Americans will acquire that information and how Americans will pay for it and who will be eligible for it and who will not and to what degree we will regulate this industry or deregulate this industry.

I wanted to start out by applauding the efforts of the chairman of the committee, Senator PRESSLER, who has worked on this issue not only as chairman of the committee but for many years. I have had the privilege and opportunity of working with him. He has done an outstanding job. I know of no other committee chairman who has spent as much time on this issue as Chairman PRESSLER has. I am very appreciative of the work he and his staff have done. There are many aspects of this legislation which I think are not only excellent measures but very important ones and will contribute to the deregulation of this industry.

I also would like to recognize the efforts of the distinguished ranking minority member of the committee, Senator HOLLINGS, who also has been involved in this issue for many years. I respect his indepth knowledge of the issue. He and I have had disagreements about the philosophy of regulation or deregulation, but there are no personal differences that we have. I not only respect but admire his advocacy of what he feels is the best type of legislation for us to pursue.

I understand the disappointment that the Senator from South Carolina felt last year when he had worked so very hard for this legislation and had it stymied at the very end of the session.

Before I go into details, Madam President, let me just state my fundamental philosophy and why these amendments that I will be proposing today flow from them. We need to have a deregulated industry. In the past, we have deregulated the airline industry, the trucking industry, the railroad industry in America, and there is very little doubt in my mind that world events, as well as national events, indicate very clearly and very strongly that the free enterprise system, unfettered by Government interference and regulation, not only prospers best but provides the best services for the citizens of any nation, including this one.

The people will come to this floor and argue that the airline industry is

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in bad shape, that they have lost billions of dollars, and some of the great names in the airlines industry, like Eastern Airlines and Pan Am, have disappeared from the scene. But the fact is my constituents can fly from one place to another in this country more easily and at a lower cost than they could in 1974 when the airline industry was deregulated.

I will freely admit that I do not ride in the comfort that I used to. In fact, when the four CEO's testified before the Aviation Subcommittee the week before last, I wanted to relate that two mornings previously I had flown from Phoenix, AZ. The airline, which will remain unnamed, advertised a breakfast. And that breakfast turned out to be a banana and a bagel. I think that something has to be changed at least in their description of what breakfast is.

At the same time, I paid far less than I would have in 1974, 21 years ago, for that airline ticket. If I had chosen to, although I would not have, and paid a significant additional amount of money and rode in first class, I probably would have gotten more than a banana and a bagel. But we have deregulated those industries, and we have found that the less regulation and interference that exists in those industries, the better off we are.

Madam President, there are those that will argue this is a deregulatory bill. It is advertised as that. I do not deny that. And I think some aspects are deregulatory in nature. Let me just quote from the report itself, which indicates that there is a $7 billion increase in revenues that will be required, and a $1.5 million per-State additional cost will be required to implement this law. And perhaps as compelling as anything else, $82 million will be required in additional funding for the Federal Communications Commission. "CBO estimates the telecommunications firms would have to pay an additional $7 billion over the next 5 years to comply with universal service requirements of the bill and believes that these amounts should be included as revenues in the Federal budget." The managers have accounted for that with spectrum auction, is my understanding.

"CBO estimates that enacting S. 652 would increase the spending requirement for the FCC by about $81 million over the 1996-2000 period."

Madam President, how can you have a bill that is deregulatory that is going to cost us an additional $81 million over a 5-year period in order to deregulate the industry? I do not think so. In fact, Madam President, there are additional—at least according to this morning's Wall Street Journal, there are 80 new regulatory functions for the FCC, all designed, of course, to ensure fairness and competition. Eighty new regulatory functions for the FCC. And, of course, the most egregious of which, in my view, is the so-called public interest aspect of the bill, which, frankly, places an enormous amount of power and authority in the hands of the FCC.

Let me make it clear for the RECORD that this legislation is a substantial improvement over S. 1822 from the 103d Congress. With all due respect, I have to say that any legislation that advertises itself as deregulatory and has a requirement for domestic content in it, which, according to the U.S. Trade Representative, was a direct violation of NAFTA and GATT, of course, it is an insult to one's intelligence to call it deregulatory. So at least we got rid of the so-called domestic content aspect of it. And we have made other substantial improvements in this bill.

Let me note that it is an improvement, but it does little in the way of fundamental deregulation. Why is it that every time I talk to someone in this industry—and there are many—they say, "I am in favor of total deregulation, but * * *" There is always a "but." And guess what? They have to have some kind of special dispensation for their industry to make sure that they have a level playing field. Apparently, the only way you get a level playing field is to have some kind of special deal for this or that segment of the industry.

As the Heritage Foundation noted in its report card on S. 652,

Unfortunately, while a modest improvement on current law misses the opportunity to benefit consumers by opening the industry to real competition. If this legislation becomes law, as structured today, consumers will not be able to look forward to serious telecommunications deregulation or competition in the short-term.

The Heritage Foundation graded S. 652, unfortunately, albeit accurately—the bill scored an overall grade of a C-minus. It is my understanding that the managers are offering amendments that will raise that grade somewhat. I applaud their efforts. Senator PACKWOOD and I are also offering amendments which will raise the grade of the bill and will result in substantially better, more deregulatory, more pro-consumer legislation.

As I said before, Madam President, we will have one opportunity this decade to substantially reform the telecommunications industry. I think we are all in agreement that if we do not pass this bill within a relatively short period of time the legislation will probably not be reconsidered until at least 2 years from now. And, of course, we do not want that to happen.

I urge my colleagues to remember that on November 8, the American people demanded a change—less Government and more freedom to innovate and compete. S. 652, like last year's bill, is based on the belief that all the woes of the communication industry could be solved by the glory of increased regulation. History tells us that regulation binds and restricts industry growth and innovation and transfers decisionmaking from entrepreneurs and thus customers to bureaucrats. These regulatory shackles do little to benefit the public.

Madam President, in free markets, less Government usually means more innovation, more entrepreneurial opportunities, more competition, and more benefits for consumers. This point was made exceedingly clear by the Wall Street Journal when it stated on April 8, 1994:

It is truly humorous for politicians to think they can somehow fine-tune or stage-manage the rapidly developing world of advanced technologies that includes emerging financial and corporate structure, entire armies of engineers and software wizards. The people who will actually bring this exciting future to life are put in lead shoes when the FCC and the Congress micromanages.

Madam President, one of the arguments that will be made today by my friend from Alaska is that this is a interim bill, that this is one step on the path toward total deregulation. My response to that is that I would have to be convinced as to where that is needed and why. I note that my friend from South Carolina is smiling at me. I understand that, since we have a fundamental philosophical disagreement. The Senator from South Carolina, I believe, did not support airline deregulation or trucking deregulation, and does not probably support the kind of deregulation that I am in favor of. We have a fundamental philosophical difference in the role of Government and whether the Government should regulate the market or let the free market play. I have heard many times my friend from South Carolina talk and how he laments that there is no longer the direct flights to Charleston, SC. I lament that, too. There is not nearly the comfort or the convenience there used to be. But the fact is—and I have provided the facts many times—that the people of South Carolina can get back and forth from Charleston, and most any other part of South Carolina less expensively and more conveniently than they ever had in the past, under Government deregulation. We used to have, under airline regulation, a special flight that went from here to a certain destination because there was a certain Senator who was a chairman of a committee. That flight used to be mostly empty, but that flight stayed in existence at least as long as that was the case.

It is important to note that without any regulations the television manufacturing industry has managed to achieve a very high penetration rate for televisions in this country, even higher than that of telephones. We must ask the fundamental question: Why do more American homes have TV sets than have telephones? Whatever the answer, the facts demonstrate that an industry can achieve virtual universal penetration without Government-imposed regulation.

Madam President, I want to highlight some of the problems I see with this legislation. First and foremost, it is not deregulatory. According to estimates published by the FCC itself, this bill will require it to take over 60 new regulatory or administrative actions.

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This bill also expands the current telecommunications service subsidies scheme. As the Heritage Foundation notes,

Instead of attempting to reform or eliminate this destructive subsidy system, the Pressler bill actually expands its scope. For example, the bill maintains current price controls, continues inefficient rate averaging, and expands the telecommunications entitlements.

The Heritage Foundation continues:

The continuation of the failed subsidy policies of the past, combined with an expanding definition of universal service, mandated under the bill, places at risk almost everything else the bill hopes to accomplish. Once personal computers, online service, set top boxes, and other future technologies become part of a package of mandated benefits, to which every American must have access, it is likely these technologies will be regulated and thus made less competitive. Further, according to CBO, enacting S. 652 would increase spending requirements for the FCC by about $81 million over the period from 1996 to the year 2000.

I wish the managers would explain to me, how do you deregulate and increase the cost to the enforcing agency of the enforcement of regulations? Is it to help them make a transition? Or is it, in reality, to enforce the additional 80 new regulations that are a part of this bill? I do not think any American would believe that a bill is truly deregulatory if it costs $81 million, payable to the regulators, to enforce.

On this point, I want to again quote the Heritage Foundation.

The bill does not contain any serious discussion of the future of the Federal Communications Commission. Policymakers appear unconcerned with the role the agency plays in the deregulatory process, and apparently do not realize it was part of the problem they hope to correct.

I am going to—I hope, before we finish this bill—look at what the Federal Communications Commission has done when we have given them a broad charter, such as determining what is in the public interest. I will tell you what the record shows—that is, that they have never really been able to determine what is in the public interest, and if they have, their conclusion has been more regulation.

That is not a criticism of the FCC. That is the nature of bureaucracies, the nature of regulatory bodies when you set them up. How should we expect anything else? That is their business.

The Congress should follow the model established by the congressional Democrats in the Carter administration in the late 1970's when they led the battle to deregulate the airlines. From the start, the future of the Civil Aeronautics Board, which regulated the airline industry, was on the table. It was well understood by most in Congress that deregulating the airlines would mean eliminating the CAB. A few years later, the CAB was abolished.

Just the opposite occurs in this bill. The bill actually expands the ability and policymaking ability of the FCC. As noted by the CBO, as I said, it will cost an additional $81 million over the next 5 years.

I want to enumerate some of the other problems in this bill. I mentioned it before, and I will mention it again, because it is really a very crucial item. The FCC administered public interest tests, which allowed the FCC to use subjective criteria in determining whether an RBOC can compete in other lines of business. The public interest test gives the FCC policymaking authority. The FCC's authority and power should be lessened, not enhanced. The public interest test allows the FCC to establish policy and control private companies and whole industries. Such ill-defined discretionary power would prevent full competition in the communications industry for years, if not decades. It should be eliminated, or at least amended so that compliance with the competitive checklist is deemed to be in compliance with the public interest test.

The Snowe-Rockefeller public users language in the bill should be stricken. The bill mandates at-cost telecommunication rates for schools, any medical facility, or libraries.

First, in my view, the Congress should not be establishing specific rates for specific groups. Such decisions should be made by the free market or, at a minimum, on the State level.

Second, many political causes that operate out of such entities, such as proabortion operations, would be given a federally mandated benefit that others in society would not be able to receive. The provision should be eliminated.

Mr. President, if we are interested in making sure that low-income individuals have access to a telephone, we have a proposal that simply is to provide vouchers for those who need it.

It seems to me that to provide vouchers to those who are low income, Americans who need a telephone service or anything else should be the recipients directly of the ability to purchase that service. When we go through other bureaucracies, other industries, what we do is increase the cost. Obviously, we distort the entire situation.

I intend to offer an amendment that would establish the voucher program in lieu of the urban rural subsidy scheme that currently exists. The current system and that envisioned under S. 652 seeks to ensure that Americans receive telecommunication services at similar rates, by giving the corporations that offer such services a subsidy. Instead of giving subsidies often to well-to-do people, we should be giving the funds directly to the needy consumer. I intend to discuss this issue more fully when I offer the amendment.

Last, we must closely examine the universal service fund mechanism in the bill. I have serious concerns about the potential of this legislation, as drafted, to create a new telecommunications entitlement program.

Furthermore, I am very concerned that the Budget Committee has not dealt sufficiently with the budgetary impact of this legislation. CBO has stated that the bill contains a Government mandate that will force telecommunications firms to have to pay an additional $7 billion over the next 5 years to comply with the universal service requirements of the bill. CBO believes that these accounts should be included as revenues in the Federal budget.

Mr. President, the budgetary ramifications of this bill cannot and should not be ignored. As CBO noted, the costs associated with S. 652 fall within the budget function 370. As such, they would increase direct budget authority in function 370 by $7 billion.

Additionally, proponents claim that the new Federal tax contained in this bill should not be counted on the budget but, instead, be considered off budget, since it is budgetarily neutral. That simply is not correct.

CBO states that receipts generated by this bill would be on budget, and I believe they are correct. Regardless of how the money is used, it should be counted in the budget.

There are those who argue that this bill saves consumers money. I wish that could be proven, but it cannot. In fact, the opposite appears to be true.

First, some have estimated that the current telecommunications subsidy scheme totals $10 billion, and since this bill streamlines and makes explicit some subsidies, that this bill results in $3 billion in savings. That is not an accurate statement.

How much money totals in the subsidy scheme is not accurately known. Some state $10 billion; others claim the number is much closer to $20 billion.

The reality is that the bulk of all this money is currently controlled by the States and is inherent in the rate scheme. In this bill, we are effectively federalizing $7 billion of the $20 billion. Is money saved by such action? I do not know.

I do know that CBO claims that it will cost $81 million to implement this bill on the Federal level and $1.25 million per year per State to implement this measure. I do know that the Federal Government does not have an outstanding reputation for efficiency and cost savings.

I also know that it is impossible to estimate the future costs of this legislation. The evolving definition of universal service contained in the bill will allow the FCC to expand service. Any such expansion of service will cost money.

The State of Colorado, for example, by the end of this year, will finally implement a single-party dialing scheme throughout the State. Doing so is good for the people of Colorado. But I will want to note that doing so costs money. It is not done for free.

Additionally, I am very concerned about the future costs of the public user section of this bill. When we subsidize telephone service for all schools, libraries, and medical facilities, there are costs in doing so. Those costs must be borne by someone.

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The bill allows the FCC and a Federal-State joint board to determine what services qualify as universal service. These services are what this new Federal telecommunications tax will pay for.

I want to emphasize after this bill passes, the FCC, not the Congress, will be determining how high this new telecommunications tax will rise. Let me repeat this: After this bill is signed into law, the FCC will be determining how much is paid into the universal service fund. That is wrong, and the impacts are staggering.

Additionally, CBO estimates that the cost of the bill to State and local governments will be substantial. The CBO report states:

Implementing the provisions of S. 652 would result in increased costs to most States. The bill would require States to promulgate regulations, direct various audits of Bell companies, and to participate in various joint Federal-State boards.

CBO states, based on information from the National Association of Regulatory Utility Commissioners' estimates, that States will incur costs approaching $125 million over the next 5-year period.

Again, I ask the question: What kind of deregulatory bill costs the Federal Government extra to implement and the State governments extra money to implement? It does not make sense.

Mr. President, we are moving this bill forward without fully understanding its impact, in my view, on the industry and the economy as a whole, and most importantly, the consumer.

I have been assured, Mr. President, that we will fix many of the bill's problems in conference. I have seen too many things happen in conference behind closed doors. I think there is no time, when special interests have more impact in a conference behind closed doors. I have no confidence that this will be "fixed" in conference.

In closing, Mr. President, I hope we can improve the bill. Deregulation will result in winners and losers in the communications industry. That is the unfortunate reality. But consumers will be the biggest winners. They will have increased options and lower prices.

The bill we pass should result in that goal becoming a reality. If the bill cannot do that, then we should amend it. If that is not possible, we should start again.

Mr. President, this morning in the Wall Street Journal, there is an article called "Locals' Access," and it begins with a quote that says "It's an inside-the-beltway game, a wise guy's game," a quote from Larry Irving, of the Commerce Department.

Mr. President, the article goes on to say:

[From the Wall Street Journal, June 8, 1995]

LOCALS' ACCESS

It's a harsh verdict, but after watching the House Commerce Committee approve a misshapen telecommunications bill, we reluctantly have to agree with Mr. Irving's assessment. The once-grand enterprise of opening the Information Highway has become a wise guy's game.

The recent committee markup was packed with lobbyists, many of whom paid $1,000 for their seats by hiring a student to wait in line for three days to reserve a spot. The bill that emerged from this familiar Beltway bog was dripping with new restrictions on competition—all of course in the name of "deregulation." This is what happens when Republicans forget the November election and start behaving like the locals.

The GOP decline on this issue was put in stark relief with the release of a study on telecom deregulation last week by the Progress & Freedom Foundation. The report, prepared by a distinguished group of scholars and welcomed by Speaker Newt Gingrich, sets a truly radical agenda: Abolish the FCC and replace it with a smaller executive branch agency. Get rid of the current regulatory hodgepodge, leaving in place only the Justice Department's antitrust functions. Get the government out of the spectrum business by creating "property rights" on the I-Way. Shrink subsidies for the officially protected groups down to the smallest possible level.

This vision, which combines Republican principles with the realities of the 21st century marketplace, is what the GOP should be doing—but isn't. Oh sure, Congressman Jack Fields and Senator Larry Pressler—the chief architects of the Republican approach—have promised that abolishing the FCC will be the next item on their agenda. But after a bruising, months-long battle over this telecom bill, Congress is hardly likely to revisit the subject anytime soon.

The Fields and Pressler legislation comes to the Senate floor this week, and far from phasing out the FCC, it gives the agency some 80 new regulatory functions—all designed, of course, to ensure "competition" and "fairness." By taking this approach, Republicans have aligned themselves with the Clintonites' French Bureaucrat worldview and against the real entrepreneurs.

In fairness, it must be said that the Republicans' failure of political vision is matched and made possible by that of industry. Over and over, telecom CEOs have told us that all they want to do is compete without government interference. But when confronted with a wide-open legislative process, the temptation seems irresistible to seek provisions burdening competitors.

Mr. President, having been lobbied by representatives of the telecommunications industry, I can attest to that for a fact.

The problem here is a familiar one—the telecom companies lean too heavily on their "insider" Washington representatives, whose skill is chiseling arcane special provisions out of an arcane process. These people are part of the reason the public is cynical about Washington. The CEOs know what's right, but are given to believe it's never attainable. Consider "universal service."

Numerous telecom CEOs have told us how awful this entitlement is: It distorts market signals. It offers huge subsidies to recipients who aren't means-tested. It costs the economy billions. But every CEO hastily adds: Of course, we can't oppose universal service; remember the political realities.

In short, the imagination that builds such remarkable private networks and products stops at the Capitol steps. Nobody is making the case to the public against universal service. Where are the TV commercials pointing out that Harry & Louise would be forced to subsidize telephone service to their rich neighbor's summer home? Instead industry lobbyists and Republicans have quietly united behind a new universal service entitlement, whose cost, by CBO estimates, would be $7 billion.

It would be a tragedy if this approach becomes law—for all concerned. The telecom industry, which now represents one-seventh of the economy, wouldn't create the 2.1 million new jobs that real deregulation would bring by the year 2000. The Republican Party would see its mantle as the party of new ideas tarnished. And the American people would be delayed in receiving the benefits of full competition—everything from new cable channels to interactive television to services not yet imagined.

Newt Gingrich and Bob Dole have to get involved to prevent their political managers from blowing this chance to deregulate America's fastest growing industry. The leadership should declare: Enough compromises, already. Let's get back to first principles, with the Progress & Freedom Foundation report an excellent place to rediscover them.

I want to read a letter I received yesterday from the Citizens for a Scund Economy.

DEAR SENATOR MCCAIN: I am writing on behalf of Citizens for a Sound Economy (CSE) to express our support for the amendments you intend to offer during floor debate on S. 652, the Telecommunications Competition and Deregulation Act of 1995. We commend your efforts to improve the legislation by streamlining regulatory review processes and taking steps to rein in the current universal service system.

S. 652, as reported by the Commerce Committee, eliminates or reduces a number of regulatory hurdles to telecommunications competition, cable rate regulation, and broadcast ownership restrictions. It provides spectrum flexibility for broadcasters. It also eliminates some rate of return regulation, and provides transition mechanisms to competitive pricing, a periodic review of regulations, and authority for regulatory forbearance.

Given the outdated regulatory scheme currently used to regulate the telecommunications industry, this legislation is a step forward. While we strongly urge adoption of the amendments discussed below, which would strengthen the bill, CSE believes the Senate should pass S. 652 even if these amendments fail.

"Public interest" review. S. 652 would condition a Bell's entry into the long-distance market upon a showing that the company had undertaken specified steps (a "checklist") to open its local network to competition. Even after the Bell company complies with the checklist; however, the FCC would have to determine whether Bell entry is consistent with the public interest.

CSE supports your amendment to deem the public interest standard to be met when a Bell company has met the requirements specified in the checklist. The requirement of an FCC "public interest" determination in addition to the checklist requirements is unnecessary and will result only in delay in bringing additional long distance competition to consumers. Moreover, this "public interest" requirement is ill-defined and thus invites virtually endless litigation over whether Bell entry is in the public interest. Unlike the public interest test, the checklist is objective, and conditioning long-distance entry solely on meeting its requirements provides some certainty in the process. Objective criteria also reduce the temptation of existing providers to use regulatory processes to protect their market.

Universal service amendments. S. 652 takes some steps toward making universal service subsidies explicit, which CSE strongly supports. We also support your amendments to

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prevent potential unchecked expansion of the current flawed system.

First, S. 652 mandates cost-based rates for schools, libraries, and medical facilities. This provision should be stricken, as your amendment proposes. The federal government should not favor particular entities to receive preferential rates. If local or state ratepayers wish to subsidize these entities, that determination can be made at the local or state level. Moreover, the community-user provision raises difficult questions. For example, is a parochial school entitled to the discounts? Should Americans who oppose abortion be required to subsidize the telecommunications services provided to an abortion clinic? Giving such benefits to certain institutions in society raises questions of fairness and touches upon constitutional issues. Therefore, GSE supports elimination of this provision.

Second, S. 652 defines universal services as an "evolving level" of services that includes, at a minimum, services subscribed to by a substantial majority of residential customers. Your amendment would narrow this definition to exclude entertainment services and telecommunications equipment. There is simply no justification to require consumers to subsidize access to interactive video games or the purchase of computers.

Finally, CSE supports your amendment to require congressional notification of the amount of universal service contributions and of any increases. This is essential to foster congressional oversight of a potentially fast-growing entitlement. It also will facilitate accountability to consumers who are paying for universal service support in their telephone bills.

In conclusion, CSE supports your amendments to further streamline the regulatory structure governing the telecommunications industry. In addition, while we recognize that S. 652 is not perfect, we urge the Senate to act on the bill.

Mr. President, the Heritage Foundation also wrote a memorandum to me and to Senator PACKWOOD, and I ask unanimous consent their letter be printed in the RECORD.

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

THE HERITAGE FOUNDATION,
Washington, DC, June 6, 1995.

Re Improving S. 652

Hon. JOHN MCCAIN,
Hon. BOB PACKWOOD

I am writing on behalf of the Heritage Foundation concerning S. 652, The Telecommunications Competition and Deregulation Act of 1995, which the Senate is scheduled to begin debate on as early as Wednesday morning. While the bill makes considerable strides toward the liberalization of the telecommunications market, the legislation is also riddled with much unnecessary regulation and new mandates. Federal Communications Commission (FCC) Chairman Reed Hundt made this clear when he announced recently that the agency "will need substantial resources" to implement the legislation. "We'll need economists, statisticians, and business school graduates," Hundt went on to say.

Although this may be the type of deregulation FCC bureaucrats like, it is falls well short of what most experts and consumers would view as true deregulation. I fact, a recent scoring of S. 652 by the Congressional Budget Office revealed the bill would require approximately $60 million in additional FCC spending over the 1996-2000 period.

Realizing the need for a more deregulatory approach, you plan to introduce a package of amendments on the Senate floor that will correct much of the bill's overly regulatory emphasis. Only by including amendments such as these can the Senate assure S. 652 will be deregulatory in both rhetoric and reality.

Cutting out the regulatory fat. Although S.652 makes some important improvements over current law, most experts agree too much regulatory fat has been added to the bones of the bill. Whether it was added to appease special industry interests or particular legislators makes little difference—the fact remains that the bill contains dozens of new rule-making powers and open-ended mandates for the FCC.

Your amendments would correct many of these flaws by offering language that would do the following.

Eliminate lengthy potential delays that would result from a "public interest" test on Baby Bell entry into new markets by demanding that the FCC allow such firms to enter new markets once they have satisfied a pre-determined checklist of requirements.

End numerous unnecessary common carrier regulations by requiring mandatory FCC forbearance when markets are deemed competitive.

Sunset transitional regulations to ensure rules do not become permanent fixtures.

Eliminate price controls and expensive mandates on carriers that serve rural health care providers, schools, and libraries.

Narrowly define universal service as basic phone service and create a more efficient, pro-competitive delivery mechanism.

Adopting these provisions would improve markedly the deregulatory scope of the bill. In fact, comparing a report card of the relevant section of S. 652 that your amendments focus on, illustrates the magnitude of this improvement. (See Table 1).

A REPORT CARD ON THE PRESSLER PLAN FOR TELECOM (S. 652) WITH AND WITHOUT PACKWOOD-MCCAIN AMENDMENTS

Report card item	Grade without amendments	Grade with amendments
Eliminates of barriers to entry and regulation (telephony).	B–	A–
Elimination of telecommunications bureaucracy.	D–	B
Elimination of telecommunications entitlements.	F	B+

Many of the amendments that Commerce Committee Chairman Larry Pressler (R-SD) plans to offer as part of a "manager's" package could also broaden the deregulatory nature of the bill. Specifically, if the Chairman offers amendments further scaling back cable rate regulation, adding more substantial broadcast deregulation, vacating the GTE consent decree, eliminating asymmetrical regulations on AT&T, as well as language broadening the scope of the spectrum auctioning authority of the FCC, then this bill overall would score a solid "B". But, again, this would be the case only if all the free-market oriented amendments being proposed are adopted.

Although the adoption of these amendments would clearly improve the scores S. 652 receives, to obtain perfect marks the Senate would need to include language that: unconditionally eliminated all barriers to entry in every segment of the market after one year; completely devolved all authority for the delivery of universal service to the states; repealed all cable regulations and created a clear and unconstrained legal environment for the delivery of video services; privatized completely the radio spectrum by creating property rights in wireless spectrum holdings; unconditionally repealed all protectionist foreign ownership barriers; eliminated entire bureaus and departments at the FCC; and made explicit mention of the preeminence of the 1st Amendment in the emerging telecommunications legal environment.

However, inevitable political trade-offs and compromises probably diminish the chances such comprehensive reform language could be inserted into the bill so late in the legislative process. In addition, certain issues such as continued downsizing of the FCC bureaucracy and the privatization of the radio spectrum could be handled in separate bills later this session.

Last chance till 1997. If the S. 652 fails to pass the Senate, in all likelihood there is little chance legislation would resurface until the next Congressional session in 1997. Such deregulatory delay would cost both the industry and consumers billions of dollars in lost economic output, higher prices, and foregone job opportunities.

However, the overly regulatory baggage attached to S. 652 would also impose significant costs on the industry and consumers and, therefore, should be removed if Congress desires a rapid and unfettered transition to free markets. The Packwood-McCain amendments would strip out such elements of the bill and facilitate such a beneficial transition. If coupled with deregulatory language found in Senator Pressler's amendment package, S. 652 could then be considered truly "deregulatory" in both rhetoric and reality.

Mr. McCAIN. I will quote from the memorandum from the Heritage Foundation. It says:

While the bill makes considerable strides toward the liberalization of the telecommunications market, the legislation is also riddled with much unnecessary regulation and new mandates. Federal Communications Commission (FCC) Chairman Reed Hundt made this clear when he announced recently that the agency "will need substantial resources" to implement the legislation. "We'll need economists, statisticians, and business school graduates," Hundt went on to say.

Although this may be the type of deregulation FCC bureaucrats like, it is falls well short of what most experts and consumers would view as true deregulation. In fact, a recent scoring of S. 652 by the Congressional Budget Office revealed the bill would require approximately $60 million in additional FCC spending over the 1996-2000 period.

Your amendments would correct many of these flaws by offering language that would do the following:

Eliminate lengthy potential delays that would result from a "public interest" test on Baby Bell entry into new markets by demanding that the FCC allow such firms to enter new markets once they have satisfied a pre-determined checklist of requirements.

End numerous unnecessary common carrier regulations by requiring mandatory FCC forbearance when markets are deemed competitive.

Sunset transitional regulations to ensure rules do not become permanent fixtures.

Eliminate price controls and expensive mandates on carriers that serve rural health care providers, schools, and libraries.

Narrowly define universal service as basic phone service and create a more efficient, procompetitive delivery mechanism. It shows increases in grade with this amendment.

The Heritage Foundation concludes by saying:

If the S. 652 fails to pass the Senate, in all likelihood there is little chance legislation would resurface until the next Congressional session in 1997. Such deregulatory delay

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That is what I am hoping we can add here.

AMENDMENT NO. 1260

(Purpose: To require Congressional notification before the imposition or increase of universal service contributions)

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

The PRESIDING OFFICER (Mr. DEWINE). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 1260.

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

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

The amendment is as follows:

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

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

"(1) the Commission submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce of the House of Representatives a report on the contributions, or increase in such contributions, to be imposed; and

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

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

Mr. McCAIN. Mr. President, this amendment would mandate that the Congress be notified in advance of any action taken by the Federal Communications Commission that would result in increased receipts to the Government. In other words, increasing taxes. There is a substantial debate about whether this bill mandates taxes or not. I believe it does. I believe this bill should be blue slipped by the House of Representatives due to the fact that the Constitution mandates that all tax bills originate in the House.

According to CBO:

CBO estimates that telecommunications firms would have to pay an additional $7 billion over the next 5 years to comply with the universal service requirements of the bill and believes that these amounts should be included as revenues in the Federal budget.

What may be a receipt to many here is a tax to many in Arizona. We can debate semantics for some time, whether a receipt is a tax or not. I do not intend to do so. But to my constituents, Government-mandated collection of revenues, which we then spend, in my view and their view is a tax.

It is true many of the costs that CBO calculated in this bill currently exist. They are part of a large telecommunications subsidy scheme controlled by the States. That does not change the fact that we are now federalizing that money into some that constitutes a tax.

I am very concerned about this new tax. As I noted, the Constitution states that all revenue measures originate in the House. I have contacted the House Parliamentarian regarding this matter, and it is my understanding that they are very concerned about precisely this issue. After all the hard work of the chairman and ranking member of the Commerce Committee—and they have worked very hard on this matter—I fear it may be for very little due to the tax problem.

Further, under provisions of this bill, not the House nor the Senate but the FCC will have the ability to originate or increase taxes, federally mandated taxes to be paid by companies. Either way, I believe that is an abrogation of congressional duty.

Under the evolving definition of universal service contained in the bill, the FCC in conjunction with a Federal-State joint board can at any time change the definition of universal service. Although I applaud the committee for accepting the suggestion I made for tightening the bill's definition of universal service, I remain concerned. However, the definition is changed. The FCC in the future could mandate call waiting, three-way calling, and any other number of services that no one has yet thought of for all Americans. Such services do not come for free. They come with a substantial cost.

The bill allows the FCC to force all telecommunications companies to pay into the universal service fund an amount necessary to subsidize such services. And, yes, these costs, the costs of paying federally mandated access, will be passed on to the consumer. When American companies are taxed, when American consumers are taxed, when anyone is taxed in this country, the Congress—not an executive branch agency—should be making these decisions.

Because of the structure of the bill it is not possible to allow the Congress to veto FCC authority we give them. Such a legislative veto bill violates the Chadha decision. This amendment, however, does mandate that the FCC notify the Congress of its intent to raise the fees that it charges communications companies. The Congress could then act to stop the FCC. We could choose to do anything. But it is imperative that we know of such changes and have time to act.

I understand that some will state that any such changes promulgated by the FCC would appear in the Federal Register, and, therefore, the notification requirements mandated by this amendment are not needed. I disagree. We should not allow tax-for-fee increases to occur merely after notification in the Federal Register. Direct notification is appropriate. Congressional committees should concur. That is exactly what this amendment does.

I ask that it to be adopted.

Mr. President, I believe that the managers of the bill are receptive to this amendment. I would ask for the yeas and nays. But I am not sure it is necessary to do so.

Mr. PRESSLER. We will accept this amendment. We commend the Senator from Arizona for his support.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I join in recommending that it be accepted. But I want to point out some things to my friend from Arizona.

I, too, have no objection to this concept of notification of increased requirements for the requirement to report if there is going to be increased cost for universal service and if there is going to be an increase in the universal service contributions.

I point out in the first instance that I believe the House is operating under a misinterpretation of this bill. If we do not enact this bill, the cost of the universal service under existing law will be about $10 billion. If we do enact it, it will be more than $3 billion less. I do not understand why the House indicated it would have an objection to a bill that would reduce the existing cost of universal service. Because of the change in this system the Congressional Budget Office has indicated that even though private contributions do not come through the Treasury, and private expenses do not come through the Treasury, as I said before since it is a mandate, it would be included in the budget process. But I have every reason to believe, and I do believe, that the cost of these systems will decline dramatically in the period ahead, and it is because primarily of this bill opening the door to telecommunications competition.

Again, I want to quote my friend George Gilder who indicated that "the computer industry will double its cost effectiveness every 18 months. The wireless conversions of digital electronics and spectronics will allow the industry to escape its copper cage and achieve at least a tenfold drop in the real price of telephonic service in the next 7 years."

I believe, and everything I have read comes to the same conclusion, with more competition and the addition of the new technology, tumbling as it is, we should see an ever-decreasing cost of telecommunications services. We have modified this bill so that it reflects the approach of the essential air

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service. It is not a universal service concept as exists under existing law. It is certainly not a tax. There is no way that this could be determined a tax. It is continuing the process that the industry itself started in the interstate rate pool. The interstate rate pool to my knowledge has never been included in the budget process. But because now we are limiting it, the Congressional Budget Office has decided that it ought to be referred to in the budget process.

Again, Mr. President, that is merely taking into account the money that customers pay and then having that money paid out pursuant to the provisions of the bill. But it is not paid to the Government. Surely it is stretching the Budget Act, as I have said before.

But I do want to say to my friend from Arizona, Mr. President, I made some comments about the long statement my friend made before. Let me say this at the very outset. The intention of this bill is to take the regulation of the telecommunications service away from the courts. What we have done is restored the States rights and we have reestablished oversight in the FCC. *If you want to look at the cost of* the courts over the last 10 years under the modified final judgement and add *it to what we have put out for the Jus*tice Department antitrust operation in that time, we are reducing the cost to the Government of the administration of the telecommunications law because the courts will not have jurisdiction over these cases that they have had before under the modified final judgment.

I do believe that we have a series of matters we ought to discuss. But I certainly want to compliment the Senator from Arizona in terms of his approach of pushing further and further for deregulation. But the deregulation comes about as we increase competition. If we just deregulate the monopolies in their own areas, we will not end up with a kind of telecommunications competition that will bring about this constant reduction in costs because of the entrance into this telecommunications area of these new technologies.

Above all, I urge Members of the Senate to look at the studies that have been made about what is going to happen as we do in fact bring in the new technologies and allow them to compete. We are really not going to be talking about telephones. My friend from Arizona said we ought to have telephone service for these people. Telephone service in the future is going to be like giving people vouchers to ride in an Edsel. We are not talking about telephone service anymore. We are talking about telecommunications connections which will enable people in rural America to have computer services just like everyone else. As George Gilder points out, the computer is going to be so pervasive that it will be the means of communication for most Americans by the turn of the century. It will not be telephones. There will be what amounts to phone connections in the computers.

By the way, the cost of the computers themselves is coming down at such a great rate. The cost of the base stations that will implement the interconnections are coming down. If we have the ability to use the broadband radio the way it has been described and use it for interconnections, I tell my friend from Arizona the report from the FCC, if anything I would modify it and say let us know the extent to which the costs are being reduced as well as increased because the progress is going to be in reduction, just as this bill reduces it by almost 30 percent just by the changes we have made. The communications industry itself in 7 years is going to reduce that tenfold.

I do not believe that we should oppose an amendment which would require a report from the FCC of increases in universal service contributions.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I do not know whether or not this might be the appropriate time for us to have a rollcall vote on the amendment of the Senator from Arizona.

Prior to making some comments about that amendment, I point out to my colleagues that many of the things that the Senator from Arizona said in his statement I said last night and again today. It might surprise some to hear me say this, but I, in fact, might embrace a lot of the things that the Senator from Arizona is trying to propose. I do think if you are going to move to a competitive environment the quicker you can get there the better off in many ways, and that to hold this thing back might make it difficult for us to get consumers to understand how it is we are going to adjust because there is going to be substantial adjustment to the changes we are proposing in a regulatory structure.

I must say again, as I have said a number of times, I am not getting a lot of complaints from citizens saying, "Gee. I do not like the way this is thing is working." I do not get a lot of people coming to me talking about enhanced services and all of that. I do not hear people say the current regulation makes it difficult for technology to be deployed. And I happen to be a relatively high-end consumer. I must tell you I have not been struggling to get existing technology, and hearing the companies say that it is not cost-effective. We are not going to provide you the kind of services that existing technology allows under variety.

It really is not that the regulation prevents them from doing it. They just are not doing it. So in a competitive environment, if they do not provide it to me, I will go someplace else. I will get somebody else to provide the service for me.

As I see this legislation it is attempting to move us to a point where I at the local level—and I know competition, by the way. Let me stop here a little bit and define it. Competition for me means I choose. If I do not like what you are giving me, I will go someplace else. In my particular business, if my customers do not like what I put on the table in front of them, they have a lot of choices, lots of places they can go. To me, the idea of competition is not AT&T competing with MCI or Bell Atlantic competing with CTI and all that sort of stuff. Those are big companies coming into a competitive environment.

What I think of competition is potentially a whole generation of entrepreneurs who are not here lobbying, by the way, that are not talking to us, that are not asking for anything. In fact, if you look at the jobs created in the State of Nebraska in technology, they are created by businesses that have not even contacted my office. They are created by people who are not even aware of S. 652. When I am at home on the weekend, and I say what do you think about S. 652, is it going to help or hurt? They say what the heck is that? I have to ship it to them and show them what it is all about.

The new entrepreneurs that are coming in for services with the ones that are likely to have customers are saying, boy, this is working; this is terrific.

I say, as I envision competition, there are four big areas where people are going to be able to compete, if we transition this thing properly. One is people are going to come in and say to me as a consumer you do not have to buy dial tone separately; you do not have to buy video separately; you do not have to buy all your information separately.

I have about $70 or $80 for local and long-distance telephone service. I have about $40 or so for cable—I do not know the exact dollar amount—and about $30 for other sort of published accounts, published documents, newspapers, and magazines that are coming in. I have $150 a month. If we deregulate properly, entrepreneurs coming knocking on my door or contacting me through E-mail or however they want to get to me say, BOB, you are spending 150 bucks a month, we can do it for $89.95, and we can give it to you in a different form, faster, clearer, and better than what you are getting right now.

In that kind of an environment—instead of buying dial tone separately, cable separately, and all these other sorts of services separately, I buy them in a package—I believe the consumers will be excited about it, because I believe price will go down and quality will go up.

Second, we are going to have competition in switching. By that I mean people say, well, gee, the phone is the one that is doing all the switching. It is not true. There are a lot of entrepreneurs coming online today that are doing switching, that have the technology, that have the gear, that have

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the hardware, the software in a remote location and they are switching long-distance calls, and they can do it cheaper and do it faster and better.

There is going to be competition in switching. You have this idea that you have somebody down in an office still sort of either doing it manually or digitally, moving these packets about. Well, that can be done in lots of different locations in lots of different ways and there is going to be competition, the second area of switching, of getting whatever information you got, whatever bundle of goods and services you want to move from point A to point B. They are going to get those bundles wherever you want and retrieve whatever you desire to retrieve in a most competitive fashion.

Third, there is going to be competition in content, if we do it right, if we do not yield to people who say, as the Senator from Arizona was saying, I really like competition but could you just kind of protect me a little while until I figure out how I am going to compete with somebody who has 2 people working in his office instead of 2,000. How do I compete against an entrepreneur that understands that he has to keep his salary down and his fringe benefits down and other sorts of things down in order to be able to compete.

The fourth area is there is going to be a tremendous amount of competition in a whole range of services. As I said, I consider myself relatively high in, but this stuff still confuses me an awful lot, and I am going to be paying people to tell me how to connect this hardware with that hardware and how to get on this network and that network, how to make it work inside my office or make it work inside my home—all kinds of questions that I am going to have on all kinds of new services. There will not be one company that comes when you have a problem in your home to call up and say, gee, I have a question here. And the company says, well, I can get to you next Thursday or next Friday or, gee, we do not really get into that kind of thing. BOB. We are not involved with that kind of thing.

That whole world, if we write the language of this law correctly, can create a competitive environment that I think will benefit consumers and I think prices will go down and quality will go up.

So I share many of the concerns the Senator from Arizona raised and I declare it right up front. It may be there is potential for compromise where it may not be so obvious that there is potential for compromise between myself and the Senator from Arizona and the Senator from Oregon, who have an amendment. Unfortunately, I have not seen that one. We are talking about this one smaller amendment that deals with the universal service fund, and I would like to talk about that now.

The universal service fund that we have right now is rather complicated. I will not even pretend to describe it to you because frankly I do not understand it. But I do understand one thing, and that is that we do have subsidies going on to people who are not using them quite right. Sometimes it is used to keep the price of residential service artificially low. You can go to some places in America today, they are paying $6, $7, $8 for basic residential service where you go to a city with no universal service fund where they are paying $14. The business rates are substantially lower and the technology has not been upgraded.

In many cases the universal service fund is not being used in a fashion that you think of when you hear it described. You say, well, gee, I need the universal service fund because I have people out there who cannot afford it. Well, that is terrific; if they cannot afford it, let us help them get it. The idea of a voucher may have merit. In fact, it may have merit to go in that direction rather than having this very, very difficult to administer thing and very difficult for us to understand from our vantage point. In fact, there are an awful lot of us who, up until the last 2 or 3 years, were not even aware that there was a universal fund being administered and checks written and redistributed out throughout the country, and they come and tell us such things as the entire State of Georgia as I understand it is a universal service fund. I do not know if that is true or not, but I was told recently that is the case.

Well, I mean that just indicates how difficult it is to sit here in Washington, DC, with a good idea in mind; little people cannot afford to buy the local or residential service, making sure they are able to buy the product. It is a terrifically good idea to help somebody be able to communicate out of their home that otherwise might not be able to communicate. But it is difficult for us with that good idea to put it in practice. And I think if we were to have a lengthy debate about how the current universal service fund operates it might inform an awful lot of us as to why this system needs to be changed. We are basically accepting the status quo, and I declare and disclose, I participated with the farm team as we tried to keep this universal service idea alive.

As the Senator from Arizona cited, some corporate entity that he discussed this issue with, they said, well, we do not like it, but you know the politics of it; we have to keep it in place, and we sort of presumed the same thing.

It may be there is the mobility of altering the way we operate that universal service fund, but let us presume for the moment that we are going to keep the universal service fund the way it is. As I said, I am open to suggestions of ways to do it differently. Presuming that is the case, if you look at the language of this bill, what it is attempting to do—and I now turn to my friend from Arizona because I really have a question as to how he sees this thing working. The idea that we have in subsection (c) on page 40 of the act, which is referenced in this amendment, is that if you are going to have a universal service fund, I mean if that is the idea that we are going to keep this universal service fund concept alive and use that method of funding, what is going to happen is you are going to get new telecommunications companies coming into the arena.

The idea is they should make a contribution as well; that it should not be just the phone companies or should not just be the existing entities that are making a contribution to the universal service fund; that, in fact, it should be everyone who is now providing these new information services should be making a contribution.

As I see this—maybe the Senator from Alaska, who understands this well, can comment—as I see what this does, it actually provides an opportunity for a reduction in the assessment that the established carriers are paying into a universal service fund because it broadens the base of contribution. That is the idea of subsection (c). I do not have strong feelings against this amendment. I do not mind having the FCC notify. I think it makes genuinely good sense. It was blank on my copy of the amendment. As I understand it, it is 120 days. The Senator from Arizona in his amendment is saying from the time notification of the committee occurs and the time the assessment can occur there will be a 120-day period lapse?

Mr. McCAIN. The Senator is correct.

Mr. KERREY. Will the Senator from Alaska comment? Am I right, are we not trying in subsection (c) to say we are broadening the contribution base? If I had new companies coming on-line providing service at the local level, they should make a fair share contribution to the universal service fund? As I say, I am not trying to oppose this amendment, I want to make sure we do not get something in here that ends up coming back to haunt us.

We are trying to actually broaden the base of the universal service fund contribution which should for telephone ratepayers result in a reduction of the levy that they currently have for a universal service fund payment.

Mr. STEVENS. Mr. President, if the Senator will yield to allow me to answer that question, that is the intent of the bill. When new providers of service enter into competition, they will contribute to the fund as those who are currently providing the service. So it will broaden the contribution to the fund.

The courts have held that the current universal service system is not a tax. I do not view this as a tax. I view it as one of the requirements to enter the system in a competitive spirit. I think CBO itself did not say it was a tax but said it had to be taken into account in the budget process.

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1260, AS MODIFIED

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

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

The amendment, as modified, is as follows:

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

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

"(1) the Commission submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce of the House of Representatives a report on the contributions, or increase in such contributions, to be imposed; and

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

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

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

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

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

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

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

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1261

(Purpose: To prevent excessive FCC regulatory activities)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

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

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

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

The amendment is as follows:

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

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

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

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

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

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

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

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

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The bill States that the FCC must find that allowing a Bell company into other areas of business is "consistent with the public interest, convenience and necessity."

Mr. President, this amendment would not radically change this bill. It preserves the competitive checklist that everybody agrees will ensure that local markets are open. Competition is in the public interest. I do not think we need the FCC to tell us that. The amendment will pare down the bureaucracy envisioned by the bill. As FCC Commissioner Hunt stated, "The FCC will need substantial resources to implement this legislation. We will need economists, statisticians, and business school graduates."

I do not know how much of the additional $81 million that will have to be spent by the FCC in order to implement this spending legislation would entail in determining what is in the public interest. But I would imagine that, given my knowledge of the nature of bureaucracies, it would consume a very large amount of money. And as the Commissioner of the FCC himself has stated, "We will need economists, statisticians and business school graduates."

I am sure business schools around the country are pleased to note that there will be new job openings. However, I would like to see that employment in the private sector rather than on the taxpayers' payroll.

Mr. President, I ask unanimous consent that Senator BURNS be added as an original cosponsor to the pending amendment.

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

Mr. McCAIN. Finally, I know that this issue is a contentious one. I also understand that there is substantial and significant opposition to this amendment. But the whole thrust of this amendment, in my view, is to accelerate what is the stated goal of the legislation, which is a deregulatory climate, and one which has less and less Government interference and regulation, rather than a continuum, where a somewhat amorphous definition of public interest which is defined not by those who are competing, not by consumers or the Members of this body, but an unelected bureaucracy.

I yield the floor.

Mr. STEVENS. First let me thank my friend from Arizona for his courtesy. I understand Senator PACKWOOD and others wish to speak on this matter. I have a long-standing appointment that I think is very important to the national defense. I do wish to make that appointment. I am pleased that we can take up this amendment now.

I would like to set the stage a little bit for the amendment, because I think Members may not understand the context of the Senator from Arizona's amendment.

This bill adds a new section, section 255, to the Communications Act of 1934. This will set forth the process for the entry of regional Bell companies into long-distance services. This is the provision that brings to a close the restrictions of the modification of final judgment.

This section has been the most controversial section in this bill. It has been the subject of intense negotiation between all segments of the industry. As the Senator from Arizona mentioned, there are some people that have been involved in it for a long, long time, that are coming back to talk to us about it. Members of the Senate have been involved now for well over 2 years in the whole negotiation of this section. It goes back to the days when the Senator from South Carolina was chairman.

By necessity, the language in this bill represents a compromise between a series of competing viewpoints.

Under the language of the bill, a regional Bell company may provide long-distance service when the FCC determines that the Bell company has fully implemented a specific checklist, which is found in the bill, which the Senator from Arizona mentioned; that the Bell company has complied with the separate subsidiary requirements; and the approval is consistent with the public interest, convenience and necessity. It is this last concept that the Senator from Arizona wishes to change.

This determination by the FCC must be made on the basis of the record as a whole, after a public hearing and consultation with the Attorney General, and is subject to the substantial evidence standard of review by the courts.

Let me point out that, although CBO has scored that this bill will cost, I think, $61 million over a 5-year period—more than the current FCC requirements—it does not score the decrease in costs of the involvement by the Attorney General or the involvement by the courts. So this is one of the penalties of the system that we operate under. But it is not a significant amount when one looks at the total amount of revenue being brought in now by the FCC under the spectrum auction concept that I authored, which will reach $10 billion in the near future. I think that the $61 million over a 5-year period, compared to the billions of dollars they will bring in—and more will come in under this bill than if the bill is not enacted. But we do not score that under the budget process, Mr. President. So it is a very difficult thing to handle.

Some argue that the three-pronged test is too difficult—that there should be no discretion left to the FCC to consider the public interest. Others argue—I am sure you are going to hear this—that it is too weak, and that an independent review and approval by the Department of Justice is necessary to protect the public interest.

In other words, I think you are going to have an amendment come in here that is the opposite of what Senator MCCAIN wishes—to delete the FCC's involvement—to one that says the FCC's requirement is not enough, that we must also have the Attorney General involved to protect the public interest.

In my judgment, this compromise we have worked out is just right. The FCC has a long history of considering public interest, convenience, and necessity. That was the bedrock principle of the 1934 Communications Act.

In order to transition to this new era and take the courts out—because under the modified final judgment, the courts have been determining communications policy through administrative hearings under court jurisdiction. In order to take them out, the parties involved wanted to be assured that, at least for this transition period, the oversight role of the FCC would be restored. And the determination by the FCC in this case is subject to a heightened standard of review.

Now, mind you, we have not just put it back to the way it was before the modified final judgment. It is no longer a case of the FCC not being arbitrary and capricious, which is the standard under a long series of precedence in the courts; the FCC must have substantial evidence on the record as a whole to support a decision to either grant or deny a request by a Bell company to enter a long-distance market.

In other words, in this compromise, the FCC comes back, the matter is taken from the courts, it comes back to the FCC, but under a standard that was stronger than it was before the FCC's jurisdiction was removed to the courts under the modified final judgment.

That evidence must support any determination by the FCC that the approval is not in the public interest, just as it must support any decision that the approval is in the public interest. To make any finding under this provision, the FCC must have substantial evidence. That means there will be an opportunity for all to be heard. That may be what has caused the $61 million over 5 years increase in costs to the FCC.

This is a heightened standard of review, and it is a double-edged sword that will accomplish one of the main goals of the bill, and that is to end the rule of the courts over telecommunications policy in this country.

I think that the substantial evidence standard will prevent abuse by the FCC of the public interest review, just as it will help protect the FCC decision in the grant of approval from a suit by competitors.

If the Senate takes out the public interest test and asks the FCC to base their decision only on the statutory checklist, I think that would invite abuse. Instead of considering the checklist on the merits and addressing any policy concerns in the public interest portion of the review, the FCC would have no alternative but to try to manipulate the checklist if they feel the application should be denied on policy grounds.

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Likewise, I think the courts would have an incentive to question the fact-finding process used by the FCC in making the determination solely on the basis of a checklist.

Now, I do believe if the court wants to find the process inadequate, we would be right back where we are now with the courts taking jurisdiction once again over the decisions and affect the telecommunications policy of the country.

The checklist contains 14 technical requirements for interconnection and unbundling of the Bells' local exchange networks. However, the list is not self-explanatory or self-implementing. One of the requirements is there must be the capability to exchange telecommunications between customers of the Bell company and an interconnecting carrier.

Now, I believe the reading of the checklist itself shows where the FCC is going to be involved in discretion in some way. The Senator from Arizona argues that the checklist is all that is needed and it should be straightforward for the FCC to implement. Paragraph 4 of subsection (b) of this bill specifically prohibits the FCC from limiting or expanding the terms of the checklist.

But the trouble is, how will the FCC decide that the capability to exchange communications exists? If we have just the checklist and the FCC decides that the capability to exchange communications efficiently does not yet exist, then it would be off to the courts again, because obviously no person that seeks approval of the FCC is going to take that denial without going to court. As a matter of fact, no protester is going to take the denial without going to court. I say it should only go to court with the increased standard that exists under this bill.

If it goes to court, the court will decide if the broad terms of the checklist have been met. They will second-guess the FCC in endless arguments over what the FCC based its decision on.

Our provision is clear, and will prevent abuse by both the FCC and the courts.

One of the reasons the FCC must be involved is to ensure that there is a concept of understanding of what is the public convenience and necessity, whether or not anyone is going to be harmed by the availability of the new service, and under what conditions those people are going to be harmed.

Now, we are going into a whole new concept of how rates are computed. We are going into a whole new concept of how service is provided. I believe that the gatekeeper in this process, in this period we are in now, must be the FCC, but under the standards we have agreed to now, which are higher standards than the FCC has had before and certainly higher than even the courts have followed under the period of the modified final judgment.

In other words, I tell my friend, we do have the occasion of being opposed here on the floor quite often. I understand what the Senator wants to do, but again I am hopeful that we succeed in not making the changes that the Senator from Arizona wants at this time because I think without this bill the final step of the integration of Alaska and Hawaii with the rest of the United States will not come about. Without this bill we will not have the stimulus, the development of this competition between the regional Bells and the long distance carriers, between the Bells themselves, and even more than that, between providers of new communication, through new technological systems that I think will ultimately lower the cost for everybody.

Let me, in closing, say this to my friend from Arizona: One of the things that has gotten me involved in this over the years is that when I came to the Senate, on every advertisement concerning phone service was a little tag line at the bottom of the television or on the radio announcement saying "Not applicable to Hawaii and Alaska."

My friend Senator INOUYE and I, serving on the Commerce Committee, started what we called rate integration from the offshore States. That led, really, into a whole concept of what that meant, why we had higher costs to start with and how we could bring about a reduction in the costs of communications to our States and at the same time an increased amount of service.

Actually when I came to the Senate, the Army was running the telephone service for Alaska. Alaska communication service was an Army concept. We brought about the sale of that to a private carrier, and part of that sale was a commitment that telephone service would be expanded rapidly within the State of Alaska. That has been done—but not totally even yet.

One of the reasons I am deeply involved in this, I say to my friend from Arizona, is I still believe that the process we are going through is decreasing the cost. I think we can show that the whole process, even of rate integration that Senator INOUYE and I instituted, brought about a reexamination of the interstate rate pool, a determination that, yes, it could be expanded to Alaska and Hawaii. It was expanded to Hawaii first, and it is still being expanded to Alaska.

As that came about, the contributions from individual consumers rate pool has declined in the past. It will continue to decline now. It was a private mechanism, integration of the telephone service. It continues to be a private mechanism under this bill. But with the competition that this bill now will bring in to the providers of telephone service per se, communication service will come through satellite service, like DBS; it will come to us through radio service; through fiber optic cable, in one instance; through the old links that are there, the systems that have existed even before we became a State.

What I am saying is that the net impact of this bill will be the completion, really, of the process that Senator INOUYE and I started in trying to integrate Alaska and Hawaii totally into the telephone system of the United States.

When this bill passes, there will be no distinction between the service to any portion of the country. We will have the concepts of telecommunication and the freedom to enter and compete, to bring new telecommunication systems into the arena, and to have the ability to compete with existing carriers, existing carriers whose costs of installation may have been a magnitude of 10 for 100 times what the new service will be.

My request to the Senate is that the amendment of the Senator from Arizona be defeated. Again, I hope the time comes when we are both in the Senate when we can join together and say we passed through this interim period and it is time to totally deregulate telecommunications of this country.

I think we will live to see that day. I do not think it is here now. I do not think it will even come about without this bill, because without this bill we are still under the courts. This is the bill that takes back to the legislative process the regulation of the telecommunications industry in the United States.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Arizona allowed that he and I had different philosophies. He is right. But let me talk about different facts, which brings about a confidence in this particular Senator's philosophy.

As the Senator from Arizona was talking about the improvements of deregulation in the airlines we went out and doublechecked. If you want a round trip ticket on USAir, Charleston, SC, to Washington, it is $628. But if you want to go 500 miles further, right across Charleston to Miami and back to Washington, it is only $658. Miami is 1,000 miles away. Charleston is a halfway point at 500 miles. So what you have in essence—and this is the fact, not the philosophy, and it is a very understandable one—you go an additional 1,000 miles just for $30.

It is what you call economies of distance in the airline industry. Fearing this, listening to certain experts at the time—Senator Howard Cannon, of Nevada, was the chairman of the Commerce Committee. I was engaged then in a communications bill. I was chairman of the Subcommittee on Communications and I could not make all the hearings and check. I said, "Be sure the small- and medium-size towns are protected."

He said. "Oh, yes, we have the protection. We have the protection. Do not worry. This is going to work in the public interest."

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And the opposite, of course, has been the fact. The fact is, yes, I had three airline routes coming up, three direct to Washington and three going back with National Airlines. I now have only one. For a time I had none. We worried about National Airlines continuing. They sold out to Pan Am. National is gone. We wondered about Pan Am's survival. Pan Am is gone. We wondered about Piedmont and Piedmont is gone. Air Florida crashed out here. And the very rights, the slots that the distinguished Senator from Arizona and I debate, were sold off by Air Florida, and we lost those landing rights that had been premised and founded on public convenience and necessity.

What has happened in the transportation industry, both by truck and airlines and otherwise, is the public convenience and necessity—the communities got the airports and facilities and developed them. They enticed an airline to come along with them to Washington. They had hearings before the old Civil Aeronautics Board. And on the basis of public convenience and necessity, proper service at an affordable price, they were awarded the routes and the carriage and everybody was making money, holding fire. The equipment was sound. They were competing. And everyone was happy until someone came to town with this virus to get rid of the Government, deregulate, deregulate, deregulate.

So what has happened is exactly what we feared. I voted for airline deregulation, so I am a born-again regulator. I learned anew there is no education in the second kick of a mule. I can tell you here and now, I have learned the hard way, trusting going with the amendment of the Senator from Arizona in doing away with convenience and necessity of the public. Because we go right immediately to what has occurred. What has occurred, the fact is that all of the American airlines are on the ropes. And who is taking over? The regulated ones. KLM is coming over and coming in and saving Northwest. British Air is saving USAir. Those are all the regulated airlines in Europe are taking over the so-called deregulated where we are running around like ninnies: Deregulate, deregulate, market forces, market forces.

It is just like this silly trade crowd running around hollers about free trade. Free trade, free trade—there is no such thing as free trade. The Japanese mercantilist, protectionist system is taking us over.

I was talking last night with the distinguished Senator from New Jersey. He was talking about Bellcore and the research. Do not worry about Bellcore. The Japanese are right next door, hiring the same research scientists from Bellcore like gangbusters. They do not have to move. They are in the same homes. Their children go to the same schools. And they are taking it over.

We are against industrial policy. We run around saying we cannot have industrial policy. We have the Japanese industrial policy here. That is what we have. How much do you think it costs for that Lexus? $55,000. How much does it cost back in Tokyo? It costs $85,000. And that is why I oppose the amendment of the Senator from Arizona, because the size, the financial size can take over here.

How are you going to regulate? We are not against size in the Bell Companies, but they built themselves up into the largest financially-wealthy-sized company that you can find in this country. On cash flow, the average, for example, AT&T, is 19 percent cash flow margin. The cash flow margin of a Bell Company is 46 percent. Why do you think the Bell companies are not all in with zeal for a communications bill? Who wants to get out of a cash flow margin of 46 percent to get into a business that is 19 percent? Come on. So, if one is going to occur, they want to make darned sure that it occurs very, very gradually.

The amendment of the Senator from Arizona is that if you take off this convenience and necessity, then they can get down this checklist they have about the unbundling, interconnection, dial parity—go right on down the checklist. But using their size they come like Japan. They will have loss leaders, as we call it.

I practiced law in the antitrust courts for a large grocery chain, the Piggly-Wiggly, in South Carolina. We got up to 120-some stores. They said we had a loss leader for a half-gallon of milk. We proved otherwise, but I had to go all the way to the Supreme Court to prove it. So we know about Robinson-Patman. We know about Sherman. We know about the Clayton Act.

But the public convenience and necessity goes to the philosophy and difference. The distinguished Senator from Arizona, when he says politics and politicians take over—I think it was Elihu Root—I hate to quote a Republican—but Elihu Root, the Republican Secretary of State for Teddy Roosevelt, who said that politics was the practical art of self government, and someone has to attend to it if we are going to have it. And going along talking he concluded with a very cogent observation: "The principal ground for reproach against any American citizen should be that he is not a politician." In representative America we all count. In this particular body that is what we are here for. We are representing the public convenience and necessity.

I know one way we can agree. The Senator from Arizona and I will agree we have the best communications system in the world. He nods.

"Let the record show, if your Honor please, that the witness nodded."

Now, Mr. President, I have the Communications Act of 1934 in my hand and I can read from it, I understand the Senator from Alaska has other commitments.

But I have it documented. Reading here again, as the Senator from Arizona was speaking, it appears 73 times— the "public interest" and "convenience." In title I of the 1934 act it appears five times; in title II of the act, eight times; in title III of the 1934 act, 43 times; in title IV, one time; in title V, zero times, but in title VI, 12 times; in title VII four times. Seventy-three times back in 1934 when they believed in Government, when the Government at that time was taking this "market forces, market forces," throwing us into the depths of the Depression. The Government saved us, and got us out of the Depression and saved this great United States of America. The minds of the representatives of the people here in this Congress were thinking right. They were thinking the public interest, public convenience and necessity—73 times.

So it is that as we come here the networks all came to Washington—ABC, NBC, CBS, and the rest. And on the basis of public convenience and necessity were licensed to use the public spectrum. The public convenience and necessity has gone along all the way, and we cannot do away with it. We are never going to pass a communications bill in this Congress, I am convinced, with these kind of market forces—"deregulate, deregulate, market forces controlling." On the contrary, we want to get out of the way of the technology. A new technology could come in that we do not know about.

The Senator from Alaska is reading very interesting articles which are being written in these various magazines, and communications editorials. Yes. There could be a takeover by computerization from telephones. What will happen there about the public convenience and necessity? It will not be a checklist down there for computers. We have the unbundling and all the checklists. But there still has to be that FCC, the public airwaves, the public being protected and particularly for universal service.

So we are very supportive, very strongly of the philosophy that the market forces are best. We have found that there are many instances, particularly in public transportation, public health, public safety, and public communications that, as I said on yesterday or last evening when we opened up, the one industry, the communications industry, was the one that came and begged for regulation. They were not begging for market forces. They tried it on for size.

I will go back two sentences. Our friend David Sarnoff was on top of that Wanamaker Building at the sinking of the Titanic. He picked up the actual radio signal, directed some of the rescues, picked up the names of survivors, stayed on station there for some 72 hours. And everyone got themselves a wireless. By 1924, everybody had a wireless. So nobody had a wireless because they just jammed the airwaves. So they came to Herbert Hoover, Secretary of Commerce. And they said,

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"Mr. Secretary, for Heaven's sake, regulate us." The market force of the people's spectrum up here is jammed. No one can get no one. As a result, we passed the 1927 act, and then the formative act, of course, in 1934.

So we wanted to take hold of our senses here in the National Government as we try to get ourselves out as a roadblock to the information superhighway, because the technology is on course, and the superhighway is already being developed. We in Congress can go home and adjourn for 10 years. They are going to get it. But whether they are going to get it in a monopolistic fashion, and whether co' cerned about the rural areas, about the less-populated areas, concerned about the general public convenience and necessity against monopolistic practices and prices, they can come in.

I can tell you right now. If I ran one of those Bell companies, you would just deregulate everything. I would go down the checklist, and if you did not have this public convenience and necessity provision in here, I lost leave of you. I would price it below cost. Just go like they are pricing this Lexus. I got a Toyota Cressida. I just checked the price of that—$21,800 in downtown Washington; $31,800 in Tokyo. Look at Business Week at the end of the year. Last year, they took over—in spite of Detroit's comeback, having a quality product, and making big profits—the Japanese took over 1.2 percent additional of U.S. market at a loss of $2.5 billion.

You give me one of these Bell companies and the checklist, and I got it. I can comply with it. But I can put you out of business unless you have public convenience and necessity. This is what the Bell companies want so they can run amuck.

The other one is going to come with the Department of Justice. My senior colleague is going to come with it. That is the long-distance crowd. So they can muck it up over there at the Justice Department.

So you have the Bell companies wanting a little. And we have the long-distance crowd wanting a little favor over here. We have not tried to fight them. For what? The public convenience and necessity.

Several Senators addressed the Chair.

Mr. PRESSLER. Mr. President, I ask unanimous consent that a time be set for a vote on this at 2:15 and that the time from now until then be equally divided between the Senator from Arizona and myself. I would like to vote at 1:30. There is a Senator at the White House, another Senator wants to speak at 2 and cannot; no amendments, and an up-and-down vote, at 2:15.

The PRESIDING OFFICER. Is there objection?

Mr. McCAIN. Mr. President, very briefly, I always appreciate the educational experience of listening to the Senator from South Carolina on a broad variety of issues, including the airlines.

The PRESIDING OFFICER. Does the Senator reserve the right to object?

Mr. McCAIN. No.

Mr. PRESSLER. I would like to lay aside my request until we hear from the leader. And then the Senator will yield to me to ask unanimous consent.

The PRESIDING OFFICER. Is the request withdrawn?

Mr. PRESSLER. Yes, temporarily.

Mr. McCAIN. If there is anyone who would ever be interested, I would enjoy a long, extended public debate on the issue of airline deregulation, although that is not the issue before the Senate today. I felt compelled to call the travel organization here in the Senate. And the Senator from South Carolina might be interested in knowing that there are six USAir flights between Dulles and Charleston, and three United Airlines flights between Dulles and Charleston, and many of those seats are available for $249. I will find out and submit for the RECORD what exactly that cost was in 1974 before the deregulation of the airlines.

Mr. PRESSLER. Mr. President, I ask unanimous consent that a vote occur on this amendment, and no further amendments, up or down, at 2:15, and that the time between now and then be equally divided between the Senator from Arizona and myself, and that all Senators be on notice that the vote will occur at 2:15. I think we have accommodated everybody. We have to move this bill forward.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. I have to momentarily object, Mr. President.

Mr. McCAIN. I informed the Senator from Alaska that one of the Senators requested that we hold it until 2:15.

The PRESIDING OFFICER. Objection is heard.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I am pleased to join my colleagues, Senators MCCAIN and PACKWOOD, in offering this amendment to define the public interest test.

As currently written, S. 652 gives the Federal Communications Commission in my opinion exceptionally broad discretion in defining a Bell company's fitness to provide interLATA long distance services.

The bill authorizes the FCC to block, if you will, the Bell companies from offering interLATA services if it deems that their entry into the long-distance business is not "in the public interest"—even after full compliance with a comprehensive interconnection and unbundling checklist, which is now included in S. 652.

The current language in the bill gives the FCC an open field to interpret the public interest standard any way it wishes. The FCC could, for example, decide that a market share test is required before Bell company entry into long distance on the grounds that the test is in the public interest.

A market share test in my opinion is anticompetitive and will only serve to prolong long-distance competition. It would put the fate of the Bell companies' long-distance plans in the hands of their competitors. And in a market environment, it is always amazing to me that somehow Federal regulations would allow that kind of thing to happen. Potential competitors could choose to delay their own entry into the local phone market in order to prolong the entry of one of the Bell companies into the interLATA market.

In order to avoid the potential abuse of the public interest standard, it should at a minimum state that any kind of market share test be barred from the FCC's consideration of this standard.

Mr. President, of particular concern is the extraordinary time and resources it takes for the FCC to make a public interest determination. The FCC's typical review process includes hearings and rulemakings and comments and replies and painstaking analyses. The committee report on S. 652 states that the public interest test for all Bell company provisions of long distance service must be based on substantial evidence on the record as a whole.

The report goes even further than the current FCC public interest standard by requiring the applications of heightened judicial scrutiny of the substantial evidence standard as opposed to the lesser arbitrary and capricious standard. In other words, in a bill that is deregulatory in some areas, Mr. President, this appears to be a bill that in this area is even more regulatory. And that is, of course, exactly why this amendment is now in this Chamber.

In an industry where new technologies are evolving at a record pace, this regulatory bureaucracy is counterproductive and it unnecessarily, in my opinion, delays delivery of beneficial services to the customers. And I would suggest, Mr. President, we are in the Chamber today debating a new world for the consuming public and not a new world for the companies involved, if that, of course, is the intent of S. 652.

A case in point is the history of cellular phone technology. Back in the 1970's, AT&T asked the FCC to allocate spectrum for the development of cellular services. Because of all of the encompassing nature of the public interest test, it took a decade—let me repeat, it took a decade—for the FCC to determine how best to allocate the spectrum.

Now, that is a 10-year delay in the ability of a communications technology that has become one of the fastest growing consumer products in America's history. Of course, we know, since the day we entered the cellular world, we have seen more growth in 10 years and more productivity and more jobs than the bureaucratic nightmare of the 10 years it took to open up the marketplace.

Another example of how time consuming and labor intensive the public

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interest test can be is to look at video, the concern over video dial tone. The Commission first addressed the idea of additional cable TV competition from television companies in early 1991. It has taken more than 4 years for the FCC to create a general framework for video dial tone, and with each successive ruling more and more constraints have been placed on telephone companies wishing to offer cable TV services.

That is not the way to foster competition. And it is not giving consumers the additional cable choices they have all asked for and they think in a free market they ought to be able to receive. In effect, the FCC 4-year delay has prevented robust competition in the cable industry. I would argue that this is hardly in the public interest and yet, in this legislation, that kind of bureaucracy would largely still exist and might even be enhanced over current law.

Cable industry competition would have been far preferable to the stifling regulations that have been imposed under the 1992 Cable Act. My last example concerns the Commission ruling in the mid-1980's allowing telephone companies to provide new services like voice mail that enhanced basic telephone service. In other words, some people would ask you today: What did we do before voice mail? Well, I will tell you what we did. We had a great, complicated process in many of our offices just to get communications through to the individual, and where you did not have the ability to hire the person to take the phone call, often your phone went unanswered or a call went unreturned. Today, we know voice mail works marvelously well.

Boise, my State capital, was among the first US West cities to offer voice mail service, and the service is now available from telephone companies across the Nation. It is clear to me that services like voice mail provide real benefits to consumers and to businesses yet, even after a decade, the public interest issue is still unresolved.

The Ninth Circuit Court of Appeals has twice questioned the FCC's public interest determination when it allowed telephone companies to offer new services to consumers. Because of the legal situation surrounding these FCC orders issued nearly a decade ago, phone companies are currently offering voice mail and other services under, believe it or not, a special waiver—not a standard rule of the marketplace, but a special exception or a special waiver.

Mr. President, with the heightened public interest standard included in S. 652, a decade-long wait for cellular service or resolution of voice mail issues, believe it or not, could take even longer while the consuming public believes that now to be a standard of the industry.

Before closing, Mr. President, I would like to share a few quotes from a March 8, 1995, paper on S. 652 entitled "Deregulating Telecommunications," written by Thomas Hazlett from the University of California, Davis.

In this article, he reviews the public interest standard.

While he praises the deregulatory provisions included in the bill, and there are some and they deserve to be recognized, he qualifies that praise by stating that the bill, through the inclusion of the public interest test, "fails to move us beyond the highly regulatory paradigm under which we live today." Hazlett argues that S. 652 retains the source of all anticonsumer policies since the 1934 act that we are now changing under this legislation, the public interest test. He states this:

This is not a proconsumer standard. This fundamental defect is further revealed in the bill's [four] announced objectives: Nowhere is consumer protection listed as a goal of this legislation.

Mr. President, let me repeat that. In a bill that is argued to be positive for consumers, nowhere in this bill is consumer protection listed as a goal of the legislation. I think this is wrong, and Mr. Hazlett says he believes it is wrong, also.

Indeed, the very first aim of this or any telecommunications policy should be: "Lower prices, improved choice, and better, more innovative services for consumers." The glaring omission of this goal is far more than a systemic problem.

Mr. President, Mr. Hazlett goes on to discuss the origins and purpose of the public interest standard at its inception in the 1927 Radio Act, and the subsequent 1934 Cable Act, which we are now amending today. This standard was included at the behest of incumbent radio broadcasters:

The industry liked it because it would allow Government a legal basis for denying licenses to newcomers. Senator C.C. Dill, the author of both the 1927 and the 1934 acts, liked it because it would not only allow the industry what it wanted, it would give policymakers such as himself political discretion to shape the marketplace.

Let me repeat that. It would allow public policymakers political discretion to shape a marketplace; in other words, a political free marketplace and not the marketplace that creates the kind of competition that is self-regulating at best.

This was terribly important to the Senator at the time, Dill wrote later, because established principles of law were already shaping spectrum access rights as private property.

In other words, Mr. President, the public interest test was the regulatory means by which the policymaker—that is us—not the marketplace and certainly not the consumers, could control the development of technology in the market. And we know that has never worked. The explosion of service and the quality of service that the American consumer now expects in telecommunications has only been created in the last decade as we move toward a more deregulated environment.

This was hardly a competitive criteria, and let me suggest that in this legislation, that test will stifle the kind of competitive environment that we want to create.

One last point I would like to share from this article brings us to our current situation. Mr. Hazlett argues, and I would agree, that even after years of use of public-interest standard, we still do not know what it means.

In 1993, FCC Commissioner Duggan lashed out at Commission critics who claimed this, saying it was not impossible to define public interest, and that the Commission would proceed to do so. That was 1993.

William Mayton wrote an interesting article in the Emory Law Journal in 1989 which pointed out how curious a standard the public-interest standard is by defining whatever a Government agency does in the public interest is the public-interest standard.

I find that fascinating, and yet the FCC today still struggles in its ability to define and to appropriately announce to the policymaker and to the consuming public. In short, Mr. President, anything could be deemed either in or against the public interest, and unless you treat it in the marketplace where the public ultimately makes the decision, then the public interest is in the eye and in the mind of the Commissioner or the policymaker, and that is not necessarily, and in almost all instances has never been, in the public interest.

Therefore, it is a standard that has no standard. This is the most subjective test possible, and I would argue that it will not, in effect, serve the interests of the American people.

Congress should clearly define the parameters of the public-interest standard and outline the factors that should be weighed in the making of the determination.

I submit that the competitive interconnection and unbundling checklist is in the public interest and fully meets the standard, and that should be the only provision in this law as an amendment to the 1934 act that frees the marketplace and determines the public interest. That is why I am in strong support of this legislation.

Mr. PRESSLER. Will my friend yield for a unanimous-consent request?

Mr. CRAIG. I yield back the remainder of my time.

Mr. PRESSLER. The Senator need not do that.

Mr. CRAIG. I am through.

Mr. PRESSLER. We finally, after much negotiation, arrived at the time of 2:10 for the vote on this amendment. I shall move to table at that time. I ask unanimous consent that we vote at 2:10 this afternoon.

The PRESIDING OFFICER (Mr. ABRAHAM). Is there objection?

Mr. CRAIG. Mr. President, I reserve the right to object.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. Is there an objection?

Mr. CRAIG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BURNS. Mr. President, if the Senator from Idaho does not have the floor at this time——

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Mr. CRAIG. I do not.

The PRESIDING OFFICER. The Senator from Idaho has yielded the floor. The Senator from Montana.

Mr. BURNS. I thank the Chair. I will not be long, but I want to agree with my friend from Idaho in one respect. Public interest is kind of like art or beauty: It is in the eye of the beholder.

When we talk about putting up different barriers, we are really saying that it is going to be a select few who will decide who gets in the business and who does not, where I think most of us believe that the marketplace should dictate that, because from that comes perfection, and from that comes a very competitive medicine: Lower rates for everybody who wants to use that service.

There are those who serve in this body and those who will serve without this body that can take a public service interest before the FCC and completely delay the advancement of any kind of technology or any kind of deployment of any kind of services in the telecommunications industry by just a delaying tactic that would prevent any kind of progress to be made in that area.

Whenever we start talking about this industry, what are we referring to? The Senator from Nebraska [Mr. KERREY] was saying there is no public clamor for change in this area, but there is a clamor to allow new technologies to be introduced, to do more things with the tools that we have now. That is what it is all about. We talk about great distances, and we talk about remote areas and new services that will be provided to our rural areas and our remote areas. We are trying to dictate technology such as digital, digital compression, and all of those kinds of new technologies, trying to deploy it under an act that was written some 60 years ago and that has served this industry very well, by the way. But we are talking about the nineties-and-beyond technology. In other words, we are trying to do something in the nineties with a horse-and-buggy kind of regulatory environment that does not serve either one very well.

Unnecessary delay will hinder job creation because it will prevent openings of communications markets to competition simultaneously. One has to have incentives in order to progress in this industry or in any other industry. If there is no competition at home, there is no competition internationally because this is where we hone our skills.

This amendment only helps to clarify and define the public interest. It is like I said, there are many definitions of public interest. That is why I support this amendment. It will do things not only in this industry but other industries and send a strong signal that we are a strong country within and without in the competitive marketplace, especially in new technologies and the deployment of those new technologies.

This bill already removes all legal barriers, as well as mandates the Bell companies fully comply with the requirements concerning interconnection, unbundling, resale, portability, and dialing parity. In other words, we have already gone through this business of interoperability of competition on the same lines. And that, too, has to be confronted in this bill.

So I rise in support of this amendment and just believe that it has to be done in order to make this bill in final passage truly a procompetitive and proconsumer piece of legislation.

Mr. President, I thank you, and I yield the floor.

Mr. PRESSLER. Mr. President, the public interest, convenience, and necessity standard is the bedrock of the Communications Act of 1934 and the foundation of all common carrier regulation. I am surprised that this standard has come under attack.

WHERE "PUBLIC INTEREST" ORIGINATED

The public-interest standard has been part of English common law since the 17th century. In a treatise on seaports by Lord Hale, this fundamental concept was stated: When private property "is affected with a public interest, it ceases to be subject only to private control."

This public-interest concept is the basis for the government's authority to regulate commerce, in general, and common carriers, in particular. The public-interest standard has been a cornerstone of U.S. common carrier law for more than a century.

The U.S. Supreme Court applied the public-interest concept to American commerce for the first time in 1876. In Munn versus Illinois, the Supreme Court considered the possible constitutional limits upon government regulation of business. In Munn, the Court relied on Lord Hale's statement regarding public interest. The Supreme Court added that this principle "has been accepted without objection as an essential element in the law of private property ever since." Two hundred years of English common law supported this precedent.

The 19th century U.S. Supreme Court summarized the common law public interest test as follows:

> Property does become clothed with a public interest when used in a manner to make it of public consequence, and affect the community at large. When, therefore, one devotes his property to a use in which the public has an interest, he in effect, grants to the public an interest in that use, and must submit to be controlled by the public for the common good, to the extent of the interest he has thus created.

The public interest is fundamental to the law of common carriage. The Supreme Court in Munn noted that this common-law principle was the source of "the power to regulate the charges of common carriers" because "common carriers exercise a sort of public office, and have duties to perform in which the public is interested."

The Communication Act's public interest, convenience, and necessity standard grew out of this common-law notion of property that is "clothed with a public interest" and therefore subject to control "by the public for the common good."

The public-interest standard was first codified in the Transportation Act of 1920, which extended Federal regulation of railroads. The public-interest standard governed the grant of licenses under the Radio Act of 1927, the forerunner of the Communications Act's broadcast and spectrum licensing provisions.

The phrases "public interest" and "public interest, convenience and necessity" appear throughout the Communications Act of 1934 as the ultimate yardstick by which all of the FCC's different regulatory functions and responsibilities are to be guided. For example, the public-interest standard specifically applies to the physical connections between carriers (section 201(b)); the acquisition or construction of new lines (section 214); the imposition of accounting rules on telephone companies (section 220(h)); the review of consolidations and transactions concerning telephone companies (section 222(b)(1)); and the grant, renewal, and transfer of licenses to use the electromagnetic spectrum.

Thirty-two States and the District of Columbia have public-interest standards in their communications statutes similar to the standard in the Communications Act.

PUBLIC INTEREST AND S. 652

Despite the fundamental nature of the public-interest standard to communications regulation, questions have been raised about the inclusion of the public-interest standard in relation to the competitive checklist in S. 652. Critics say the public-interest standard will frustrate the Bell companies' ability to enter the interLATA market. The fear appears to be that the FCC will use the public-interest standard to keep the Bell companies out of the interLATA market even though they have, in fact, opened their markets to competition by complying with the *checklist*.

PUBLIC INTEREST HAS LIMITS

These critics assume the FCC's discretion is unrestrained. This is not the case. The FCC's functions and powers are not open-ended. The Communications Act specifies in some detail the kinds of regulatory tasks authorized or required under the act. In addition, the act specifies procedures to be followed in performing these functions. Such delineations of authority and responsibility define the context in which the public-interest standard shall be applied. By specifying procedures, the act sets further boundaries on the FCC's regulatory authority.

S. 652 is no different. The bill would require the FCC to make two findings before granting a Bell company's application to provide interLATA telecommunications service: First, that the Bell operating company has fully implemented the competitive checklist in new section 255(b)(2); second, that

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the interLATA services will be provided through a separate affiliate that meets the requirements of new section 252. In addition, the Commission must determine that the requested authority is consistent with the public interest convenience, and necessity.

Opponents of the public-interest standard in section 255 argue that a Bell company could fully implement the checklist, meet the separate affiliate standards, and be arbitrarily denied authority to provide interLATA service by the FCC. This simply is not the case.

The FCC's public-interest review is constrained by the statute providing the agency's authority. For example, the FCC is specifically prohibited from limiting or extending the terms used in the competitive checklist. In addition, the procedures established in S. 652 ensure that the FCC cannot arbitrarily deny Bell company entry into new markets.

THE TRUTH OF PUBLIC INTEREST IN S. 652.

In S. 652, Congress directs the FCC to look at three things: the implementation of the checklist, separate affiliate compliance, and consistency with the public interest. The FCC's written determination of whether to grant the Bell company's request must be based on substantial evidence on the record as a whole. A reviewing court would look at the entire hearing record. If the FCC would find that a Bell company meets the checklist and separate affiliate requirements, but denies entry based on the public interest, the agency's reasoning must withstand this heightened judicial scrutiny. Those who oppose public-interest review would ask us to sanction action that the FCC affirmatively finds to be inconsistent with the public interest. How could this be good public policy?

Mr. President, on earlier points, I will point out that the Citizens for a Sound Economy has endorsed the bill that is before us. It has endorsed some of the amendments, but also the entire bill.

This bill is much more deregulatory than any we have had before us. It is not a perfect bill. But it will be a great step toward deregulation and a pro-market competition.

Let me also say that we will be reducing the costs of the Justice Department administration. It seems for some reason the Justice Department wants to stay in the regulation business. The Justice Department is to enforce certain antitrust standards and to carry out certain other functions.

In our bill, the FCC refers their decision to the Attorney General and the Attorney General can make a recommendation as to whether to use the 8(c) test or whether to use the Clayton standard test, or indeed whether to use the public interest standard, or any other standard that he deems necessary. So we still have involved consultation with the Justice Department in our bill.

There are many other points to be made here regarding this bill. But I believe we have completed debate on this amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. President, I ask unanimous consent that the McCain amendment vote occur at 2:10, and the time between now and 2:10 be equally divided in the usual form, and no amendments be in order. I further ask unanimous consent to table the McCain amendment at 2:10.

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

Mr. THOMAS. Mr. President, I strongly support the amendment offered by my colleagues—Senators MCCAIN, PACKWOOD, CRAIG, and others—to clarify the public interest standard in the bill.

This public interest test will certainly cause unnecessary delays in the deregulation of the telecommunications industry. The public interest is a vague and subjective standard. A deregulatory bill, as this bill is supposed to be, should establish clear and objective criteria to open the industry to competition. This bill does not. Instead it dictates that a few folks at the Federal Communications Commission [FCC] will decide when true competition begins on the information superhighway.

The FCC's regulatory track record is horrendous. In addition, allowing the FCC to interpret what is in the public interest introduces a perverse incentive for FCC officials to slow down deregulation. Increased competition decreases the agency's workload and diminishes its need for existence. At a time when we are downsizing Government, we ought not to be expanding the role of the FCC. The bottomline is that FCC officials cannot create competition with bureaucratic entry tests.

By delaying true competition, this bill hurts consumers. According to several studies, this delay could result in billions in lost economic output and millions of new jobs. With such severe economic costs, it makes little sense to delay competition with this public interest standard. Quick deregulation will ensure that all companies face the most ruthless regulator of all—the American consumer.

This amendment puts all parties on equal footing—the Bells can offer long distance services when long distance companies can offer local telephone service—no sooner, no later.

Mr. President, the bottomline is that competition is in the public interest. It expands consumer options, lowers prices, creates new jobs and increases our international competitiveness. I urge my colleagues to join me in supporting this proconsumer amendment.

Mr. CRAIG. Mr. President, after many years of failed attempts, this Congress will have the overdue opportunity to reform the 1934 Communications Act. Senator PRESSLER, the chairman of the Commerce, Science, and Transportation Committee, is to be commended for his efforts to get legislation passed out of the committee and onto the floor of the Senate.

Mr. President, the Telecommunications Competition and Deregulation Act of 1995, S. 652, is a very comprehensive bill covering all areas of the telecommunications industry. S. 652 is a vast improvement over the status quo.

However, it could be made more deregulatory, better enhancing competition in the marketplace. Therefore, I hope that the final bill passed by the Senate will incorporate a number of deregulatory amendments.

As I mentioned, this is a very comprehensive bill, so I will limit my remarks at this time, to more general issues of concern and interest. First, and foremost, it is important that we do not lose sight of the ultimate goal of reforming the 1934 act, which should be to establish a national policy framework that will accelerate the private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition.

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

Passing legislation that will open competition in this $250 billion industry will have broad-reaching effects.

It is important that we seize this opportunity to limit the Government's role in this vibrant sector of our economy.

Last year we debated health care—that is, impact. It is not often that the Congress has an opportunity to write telecommunications legislation. Therefore, it is important that we pass legislation that is clear, forward-looking, and does not perpetuate regulations that outlive their usefulness or create monopolies.

It is my position that the best way to achieve this is to move toward a competitive system by removing barriers to access in the various sectors of industry. Let me emphasize this point, because I think it reflects some of the differences of opinion on how to get to competition, competition will exist when all barriers to market access have been removed.

To deregulate through regulation reminds me a little of the term widely referred to in last year's health care debate, "Managed Competition." I am very concerned that efforts to control deregulation through regulation will put the Government in the position of determining the winners and losers in the marketplace.

This is not a role for the Government to play. As a conservative, and one who

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strongly believes in limited Government, I am very concerned about the powers delegated to the FCC in S. 652, which could allow unnecessary delays in fully opening the telecommunications market.

In short, S. 652, as I read it, deregulates through regulation. It gives an inch with new competitive freedoms—then takes a mile with new layers of regulatory conditions and market entry barriers. It is my hope that we can preserve the pro-competitive aspects of S. 652 and clarify those sections that unnecessarily restrict competition.

With that in mind, there are several amendments that I will be supporting during debate on this bill, which will promote deregulation and competition.

First and foremost, we must ensure that the bill provides for the elimination of obsolete regulations, once certain competitive conditions are met. In order to achieve those competitive conditions, there should be clear, reasonable and objective requirements or conditions that will remove access barriers that currently protect monopolies.

Having said that, once those barriers protecting monopolies are removed, a competitive marketplace is established and there should be open competition. More specifically, if a market is contestable, regulators should not interfere with natural competitive forces.

Competition will provide the lowest price, the best delivery of new services, and infrastructure investment—not regulators.

Mr. President, I think it is important to emphasize that this is not just an industry bill. This legislation has the potential of creating thousands of new jobs and enhancing access to a wide array of communication and information services to all Americans, but especially folks who live in rural or remote communities.

According to a recent study by the WEFA group, which is an econometric forecasting agency, competition in the telecommunications industry will dramatically benefit the American economy.

The WEFA study concluded that delaying competition just 3 years will result in a loss of 1.5 million new U.S. jobs, and $137 billion in real gross domestic product by the year 2000.

Conversely, the study found that the immediate and simultaneous opening of all telecommunications markets would create 2.1 million new jobs by the turn of the century, and about 3.4 million over the next 10 years.

The study also shows that during the next decade, full competition in telecommunications would increase GDP by $298 billion; save consumers nearly $550 billion through lower rates and fees for services; and increase the average household's annual disposable income by $850.

In Idaho alone, thousands of jobs would be created with simultaneous and immediate competition. According to the WEFA study, Idahoans would benefit from the creation of 7,400 new jobs by the year 2000.

In addition to the issue of job creation, rural States have a great deal at risk if we do not pass legislation to deregulate telecommunications.

There are many examples in my home State of Idaho that demonstrate how current regulations reduce customer choice, restrict growth and access to new technologies.

In March 1994, U.S. West Communications was forced to cancel two new information services in Idaho, NeverBusy fax and Broadcast fax, due to the MFJ requirement that equipment providing the services must be located in each LATA. Because of population density, there were not enough customers to support the cost of maintaining the necessary equipment in the Boise LATA.

Technically, one piece of equipment can serve several States, but the law requires the extra expense of replicating equipment in each LATA just to meet outdated regulations that are not consistent with market demands.

In addition, Boise was selected by U.S. West to be one of the first areas in the company to be wired for broadband service, giving residential and business customers access to voice, video, and data over a single line. Due to the long timeframe associated with the FCC approval process and limitations of current MFJ regulations, the project has been delayed indefinitely.

In 1988, the Idaho Legislature approved one of the first modified regulation structures in the country.

All services except local exchange services with five or fewer lines were completely deregulated. As a result of opening the marketplace, over 150 companies now provide long-distance calling within the State.

The total volume of calling has increased by 60 percent and the long-distance market share of U.S. West has declined by over 15 percent. The end result has been a reduction in both the prices paid by the long-distance carriers to gain access to the network and the price paid by the consumer for services. This, in spite of the fact that local exchange services were still perceived to be what some would term as a "monopoly" service. Opening Idaho's market has enhanced competition and improved prices for consumers.

In both an article and an editorial, the Idaho Statesman outline how businesses in Idaho were able to save millions of dollars through increased productivity and improved services because of the infrastructure and services offered by the local telephone company as a result of the modified regulation made possible by legislation I have described.

The Statesman recognizes the value of a competitive communications marketplace, and has been proactive in its editorials in encouraging an open telecommunications industry.

Mr. President, I would like to take a few moments to discuss some concerns on the need for deregulation on the cable industry. Let me begin by saying that I opposed the Cable Act of 1992, and voted against passage of the bill.

Since the enactment of S. 12, I have received numerous complaints from fellow Idahoans who felt that the changes resulting from S. 12 worsened rather than improved their cable service and cost. In addition, a number of very small independent cable systems in Idaho have been in jeopardy of closure because of the astronomical costs associated with implementing the act.

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

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

As I mentioned before, Mr. President a central goal of S. 652 is to create a competitive market for telecommunications services. Cable companies are one of the most likely competitors to local telephone monopolies. Cable companies will require billions of dollars in investment to develop their infrastructures in order to be competitive providers.

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

Mr. President, rate regulation will not maintain low rates and quality services in the cable industry. Competition will.

New entrants in the marketplace such as direct broadcast satellite [DBS] and telco-delivered video programming will provide competitive pressures to keep rates down.

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

It is my preferred position that S. 652 should completely repeal the Cable Act. However, I am very supportive of efforts to repeal rate regulation for premium tiers, and complete relief of rate regulation for small cable companies, who have been hit so severely by the 1992 Cable Act.

Before closing, Mr. President, I would like to take a moment to share some interesting letters I have received from various groups outside the telecommunications industry. First and foremost, I was very interested as a member of the Senate Veterans affairs Committee to see the great interest veterans service organizations have in seeing a deregulatory bill passed.

In a letter form James J. Kenney, the national executive director of AMVETS, he states the following:

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America's veterans and their families have a real stake in the debate in Congress over competition in telecommunications.

We know that full competition—now—means millions of new jobs spread throughout every section of our economy. A recent study by the WEFA group calculated that 3.4 million new jobs would be produced over the next ten years if all telecommunications companies were allowed to compete right away. These jobs are desperately needed for the estimated 250,000 men and women who are being discharged every year due to downsizing of the military . . . .

Veterans want Congress to be on our side in this fight—to stand up for us—for new jobs and lower prices. We don't want to have to wait for the benefits of new competition. . . .

On behalf of AMVETS and all of America's veterans, I urge you to move forward quickly in assuring that S. 652 will be a telecommunications reform bill that will allow immediate and simultaneous competition in the marketplace.

Mr. President, I intend to stand up for our veterans, and other of our citizens. I think this letter shows just how important this bill is to all Americans and the benefits that we can all enjoy from a robust and competitive telecommunications market.

Another interesting letter on this legislation, written by former Surgeon General C. Everett Koop, M.D. and Jane Preston, M.D., and president of the American Telemedicine Association, also urges the Congress to "Pass telecommunications reform legislation that opens up full competition in both local and long distance communications without delay."

Their interest in S. 652 is the potential advances it can bring to the medical field through greater access to telemedicine.

As a member of the Senate/House ad hoc Committee on Telemedicine and Informatics, I agree with the interests outlined in this letter.

One of the single largest obstacles to the Deployment of Telemedical services LATA boundaries. Many of those involved in the field of telemedicine see LATA boundaries as "toll booths on the information highway." The existence of LATA boundaries, (and accompanying high rates for long distance services) was not a problem in the early stages of telemedicine research and demonstration projects. . . . However, with the development of telemedicine projects as ongoing, financially viable operations and with the steady increase in telemedical interactions, the cost of long distance services has become a major program. Therefore, we ask you to eliminate this barrier by lifting existing restrictions and allowing all companies to compete immediately for local and long distance services.

The letter goes on to describe the many health care uses of the telecommunications infrastructure such as the training and education of health care professionals, consultation, and diagnostics, in addition to all the administrative functions that use the system. This is especially important to the future of the delivery of health care in remote and rural communities.

Mr. President, I don't support the unnecessary Government regulation of private industry. Some will argue that the regulations incorporated in S. 652 are not only necessary, but they are the only way we can reach a competitive marketplace. I disagree. There will be a number of amendments offered to curb the regulations that remain in this bill. With these clarifications and improvements, I am confident that S. 652 will positively change the telecommunications landscape for the betterment of American consumers and the national economy. I hope my colleagues will join me in support of those amendments.

The PRESIDING OFFICER. Who yields time?

If neither side yields time, time will be charged equally against both sides.

The Senator from Idaho.

Mr. GRAIG. Mr. President, I suggest the absence of a quorum. I ask that no time elapse equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LOTT. Mr. President, may I inquire about the time arrangement at this point?

The PRESIDING OFFICER. At this point we have a vote on the McCain amendment set for 2:10. At this point, there are remaining 2 minutes 3 seconds on Senator PRESSLER's time for discussion on that amendment, and 20 minutes remaining on Senator McCain's amendment.

Mr. LOTT. Let me ask it this way. Is there time in here that I may use that is not designated on one side or the other?

The PRESIDING OFFICER. It would take unanimous consent to proceed in that fashion. But the effect would be potentially delaying the vote if the advocates and proponents of the amendment were to withhold this time.

Mr. LOTT. Mr. President, I ask unanimous consent that I be allowed to speak against the amendment for the next 5 minutes.

Mr. STEVENS. Reserving the right to object, I shall not object, so long as it comes off both sides. I understand that is agreeable to Senator MCCAIN. We still want the vote at 2:10.

The PRESIDING OFFICER. There are only 2 minutes left of Senator MCCAIN's time. If that were to be equally divided, it would exhaust all the time he has left plus additional time.

Mr. STEVENS. Senator PRESSLER has 2 minutes.

The PRESIDING OFFICER. I believe Senator MCCAIN has 2 minutes because the last speaker spoke, I thought, in support of the amendment.

Mr. STEVENS. Mr. President, as I understand it, consistent with Senator MCCAIN's desire, just take the time and allow the Senator to speak.

Mr. LOTT. Mr. President, I think we all understand that. I will be brief. I want to be recognized briefly to speak against this amendment. I think what we have here is a classic case of the defeat of the good in pursuit of the perfect. Perhaps this legislation is not perfect, but it has been worked out very laboriously in a bipartisan way. It may not be totally perfectly deregulatory. I am sure it would be wonderful if we could eliminate the FCC. A lot of us would like to see no need for the FCC. But we are going from what has been a monopolistic system, an antiquated system, to a new, dynamic, open, more competitive, and much less regulatory system. This language, the public interest standard, that is included in the bill is a very important part of the core. It was a part, an important part, of putting together the agreement on the entry test. In my opinion, it is sort of part of the checklist. Once the Bell companies meet the checklist, there is this one additional thing, the public interest question. I think it is important to make sure that we have a fair and level playing field. This is part of that effort to make sure that we have done it right.

Our purpose here is to have more competition and less regulation. But I do not believe it is going to be constructive at this point if we take that public interest language out of there.

So I urge my colleagues, if we are going to keep this compromise agreement together, we need to leave this language in there.

I urge the defeat of the McCain amendment.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. How much time remains?

The PRESIDING OFFICER. Eighteen minutes forty seconds.

Mr. MCCAIN. Mr. President, I yield myself such time as I may consume.

I really am struck by the comments of the Senator from Mississippi because it is exactly what is in this editorial of the Wall Street Journal. It is not a good idea to have the public interest provision in the bill, but let us do it because we have a compromise here. Let us make a bad deal, but it is a deal. I cannot tell my colleague from Mississippi how deeply I am disappointed in his position on this issue.

I had many conversations with him when we were talking about a checklist and how a checklist would satisfy the concerns of those who were in opposition to this legislation. Now, obviously, that was not enough. But we are going to make a deal. Let us change the debate around here. Instead of debating a piece of legislation, let us make a deal. The fact is the public interest aspect being added onto a checklist negates the entire checklist. What in the world is the need to have a checklist to say we comply with the checklist and then send it over to the

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FCC to decide what the amorphous position of the public interest is? The reason we will not do away with the checklist is we went down this road of concession after concession. We decided first that we will not have a checklist, then whether we needed a checklist. Then that was not sufficient to get enough support, so we added the public interest clause. So we end up with a meaningless checklist.

What in the world is the sense of having a checklist then after the checklist has been complied with? OK, it has been complied with, but it is up to you, FCC. What relevance does a checklist have?

Mr. President, I continue to be disappointed at what the Wall Street Journal describes as the "problem here is a familiar one." Companies lean too heavily on their insider Washington representatives whose skill is chiseling arcane special provisions out of an arcane process. These people are part of the reason the public is cynical about Washington. The CEO's know what is right, but they are given to believe it is never attainable considering universal service.

Mr. President, I am aware that this amendment will probably not be passed. But this is a clear example of what is wrong with the way we do business here in Washington. In the face of principle, we now compromise, and instead of doing so, let us have a bad deal, but it is better than no deal at all. I do not agree with that. I believe that we do a great disservice to the people whom we represent in the name of deregulation to add 80, according to the Wall Street Journal, 80 new regulatory functions, all designed, of course, to ensure competition and fairness.

Part 1 of those 80 new regulatory functions—part of the $81 million that the FCC is going to need to enforce this deregulation, and, of course, in the words of the Commissioner of the Federal Communications Commission, they will need accountants, statisticians and business school graduates. So let us call this what it is—a plus to some special interests and perhaps some improvement in the status quo but certainly not deregulatory legislation.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. I yield such time as is remaining to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I thank the Senator from Alaska.

I rise in opposition to the amendment. The most difficult thing to have happen in the law that we are deliberating here is the competition at the local level. That is the most perplexing and most difficult part of all. By competition, I do not mean competition for phone service. I do not mean competition for cable service. I do not mean competition for information businesses that want to preserve this kind of line of business distinction. I mean competition to package information services, not coming from the big guys that we talk to all the time in this town, but from that new entrepreneur that hires their lawyers at $50 an hour, not by the dump truck load, who need to make certain they will have an opportunity to compete.

This checklist, such as it is, I do not know if the checklist is going to work. There are 14 things on the checklist. Take a look at it. You tell me. One of the problems that I have in this whole mechanism is that it says the FCC is supposed to determine whether or not we have competition. How do I determine? Well, I have a checklist.

Then I have one final test that, by the way, has been litigated many, many times over the course of time. The Supreme Court has spoken many times on this issue. They understand the intent with a lot more clarity than meets the eye in this area. This is an effort to make certain that in fact we do get competition at the local level. I assure my colleagues, if we do not get competition at the local level, our consumers, our citizens, households are not going to be happy because their rates will not come down for overall information services. Their quality will not go up. Only in the competitive environment will that happen. Only if the provider of services knows that the customer can walk and go someplace else is there going to be a competitive environment, and only if the law encourages and allows new entrepreneurs and startup companies, as I believe the language in this bill allows, and that the amendment will strike.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. Mr. President, I yield my remaining time to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, I thank my good friend from Arizona. I apologize for being late. The Finance Committee met from 9:30 until about quarter of 1. I have just gotten here now.

I realize the time constraints we are under, and I am not going to make a lot of long opening comments. This amendment is a simple amendment. No matter how anybody cuts it and attempts to parcel the bill, there are two competitive tests in this. I am going to refer to them as section A and section B, and they are genuinely competitive, objective tests. But then there is a conjunction at the end of the second section. We get into this public interest. It reads, "And if the Commission determines that requested authorization is consistent with the public interest, convenience and necessity," and what not.

What that means is that if any applicant meets the first two, which are objective and measurable, they still have to get over the hurdle of the third test, which is the public interest test. That is amorphous. That is anything the Federal Communication wants it to be. It is an unneeded test. It is going to be a test that is going to tie up every applicant not for weeks, not for months, but for years as we go through not some kind of an objective what is the public interest but on every single application to extend service to consumers, every single application to get more competition into the communications field, every one of those is going to have to pass a subjective public interest test, because I can assure the Presiding Officer and I can assure this Chamber that anybody who opposes one of your competitors getting into your business is going to say it is not in the public interest and you are going to have to prove that it is in the public interest.

And here is where I wish to complain about established bureaucracy generally, and I do not mean it critically, but I do mean it in the sense that there is a great tendency of any regulatory body to like what is. And there is a triangle between applicants and regulators and employees who used to be with the regulators, who now represent the applicants and who will also be representing the opponents of the applicants. And there will be a cozy tendency not to want to expand.

I am just going to give 3 minutes of history here on deregulation efforts I have seen since I have been on the Commerce Committee. I have been on it now since 1977, and I have been through every single deregulatory phase that we have had. Airlines in 1978—no one in the airline industry except United Airlines, to their credit, favored deregulating the airlines, nor did any of the unions that worked for the airlines want deregulation. In 1980, truck deregulation was opposed by the American Trucking Association and the Teamsters Union and not very enthusiastically looked at by the Interstate Commerce Commission, which then regulated trucking. We deregulated trucking by and large in 1980, and the Interstate Commerce Commission has shrunk from about, as I recall, 2,200 employees in 1981 down to around 500 or 600 now. My hunch is that the life of the Interstate Commerce Commission is not long in being. But because we deregulated, they shrunk down.

Now, what is the one thing that we left unregulated—I should not say we—that was left unregulated. When AT&T agreed with the antitrust division for the modified final judgment in 1982, the one thing that is not part of that judgment was cellular phones. Why? Because nobody cared. In 1982, you had 100,000 cellular phone customers. Do you know what the historical analogy is?

It is England and France after World War I, when they decided to divide up the Turkish territories, Turkey being an ally with Germany in World War I, and they lost. Turkey had control of the entire Middle East. England and

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France divided it up. England took Israel, Jordan, and Iraq; France took what became Lebanon and Syria. Nobody wanted Saudi Arabia—nothing but a desert. So it was left to drift on its own. No one knew there was any oil. I am sure Britain and France would have carved it up also if they thought they wanted it.

Nobody cared about cellular phones in 1982, so with 100,000 then, 25 million now, and 28,000 new customers a day, we will be at about 120 million cellular phone users by the year 2002. There are only 150 million telephone subscribers now. The reason this service is growing—and is it competitive? Read the advertisements. Hear the television. Listen to the radio. Competitive? Are the prices coming down? Is it big competitor after big competitor about some interesting small-niche competitors that understand this business, and because they are small and often personally held, they can beat AT&T or MCI or Bell Atlantic? That never would have happened had they been included in the modified final judgment.

I can see exactly what is to happen if we do not get rid of this public interest part of this bill. In is going to come a smart young engineer who worked for AT&T until he or she was 38 and decided to leave and form a little niche company of their own, and they are going to want to get into Bell Atlantic's territory. We think this is Bell versus AT&T. They are going to want to get into that territory, and they are going to make an application. And they are going to be kept out, or Bell Atlantic is going to be kept out if they want to get into AT&T's territory because they do not meet the public interest test.

Mr. President, of all of the areas of business in this country that no longer need regulation, communications is it. The argument is made that we are operating under an act that was passed in 1934. That is true. If we pass this act today, this takes us up to about 1964, 1974 at most.

Mr. President, we are not 5 to 10 years from the day that wired systems are going to be irrelevant. We are going to go back to broadband broadcasting where your computers are going to be hooked up by radio waves or the equivalent rather than wires, and we are going to have more spectrum than we know what to do with. And we are going to be hobbled because this bill will not give the freedom to competitors that is necessary, and the public interest test will do more to stop that freedom of competition than any other single thing.

I hope very much the Senate will adopt this amendment. This amendment by itself will do more to make sure that we have the equivalent of the kind of competition we have seen in cellular in the last 10 years than any other single thing this Senate will consider.

I thank the Chair.

Mr. MCCAIN addressed the Chair.

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

Mr. MCCAIN. I ask unanimous consent that Senator THOMAS be added as a cosponsor.

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

Mr. PRESSLER. Mr. President, I move to table.

Mr. HOLLINGS. I move to table.

The PRESIDING OFFICER. Does the Senator from Arizona yield back his time?

The Senator yields back his time.

Mr. PRESSLER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now is on agreeing to the motion to table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

Mr. LOTT. I announce that the Senator from Mississippi [Mr. COCHRAN] is necessarily absent.

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

The result was announced—yeas 68, nays 31, as follows:

[Rollcall Vote No. 243 Leg.]

YEAS—68

Akaka	Glenn	Moseley-Braun
Ashcroft	Gorton	Moynihan
Bennett	Graham	Murkowski
Biden	Grassley	Murray
Bingaman	Harkin	Nickles
Bond	Hatfield	Nunn
Boxer	Hollings	Pell
Bradley	Hutchison	Pressler
Bryan	Inhofe	Pryor
Bumpers	Inouye	Reid
Byrd	Jeffords	Robb
Campbell	Kassebaum	Rockefeller
Chafee	Kennedy	Roth
Cohen	Kerrey	Sarbanes
Conrad	Kerry	Simon
D'Amato	Kohl	Snowe
Daschle	Lautenberg	Specter
Dodd	Leahy	Stevens
Dorgan	Levin	Thompson
Exon	Lieberman	Thurmond
Feingold	Lott	Warner
Feinstein	Lugar	Wellstone
Ford	Mikulski	

NAYS—31

Abraham	Faircloth	Mack
Baucus	Frist	McCain
Breaux	Graham	McConnell
Brown	Gramm	Packwood
Burns	Gregg	Santorum
Coats	Hatch	Shelby
Coverdell	Heflin	Simpson
Craig	Helms	Smith
DeWine	Johnston	Thomas
Dole	Kempthorne	
Domenici	Kyl	

NOT VOTING—1

Cochran

So the motion to table the amendment (No. 1261) was agreed to.

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

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

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR

Mr. PRESSLER. Mr. President, I ask unanimous consent that Rosanne Beckerle be permitted privilege of the floor.

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

Mr. DOMENICI. Mr. President, I ask unanimous consent that Erica Gum, an intern in my office, be permitted privilege of the floor during the remaining debate of this issue.

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

AMENDMENT NO. 1262

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

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 1262.

The amendment is as follows:

Strike Section 310 of the Act and renumber the subsequent Sections as appropriate.

Mr. MCCAIN. Mr. President, this amendment would strike the provisions in the bill that force private companies to give preferential rates to certain other entities.

Specifically, the bill mandates that any health care facility, library, or school receive telephone service at cost. In other words, the telephone company must offer such service at reduced rates.

We all support helping education, furthering the ability of all individuals to have access to libraries, and helping people get medical help.

Mr. President, I am very concerned that the provisions of this bill go too far. Rural health providers will be provided with these low, preferential rates. I question whether such action will help low income rural Americans receive health care or will it help wealthy doctors become even wealthier when their telephone bills are reduced.

I question whether such an across-the-board mandate for schools to receive preferential rates is really necessary for wealthy suburban schools?

And for all of these provisions, I must question does anyone truly know the cost involved here?

For the following reasons, the public users section of this bill should be struck.

First, these provisions amount to an unfunded mandate. Earlier this year we passed legislation to discourage us from passing unfunded mandates on to companies. Make no mistake, this is an unfunded mandate.

Second, many States are already giving some entities preferential rates. There is no reason we should federalize a legitimate function of the States.

Third, if we are to pass such a provision, at a minimum, it must be means tested. There is no reason to give preferential rates to individuals who do not need them.

Fourth, we do not have an accurate assessment of how much this entitlement will cost.

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Last, these provisions contain huge loopholes that many will exploit. Will abortion clinics apply for preferential rates as medical facilities? Will law firms with legal libraries seek preferential rates? These terms are not precisely defined in the bill and are open to exploitation.

Mr. President, as an example of what would be provided, it says in the bill on page 134, paragraph 3:

Health Care Provider. The term "health care provider" means post-secondary educational institutions, teaching hospitals, and medical schools.

After reading through the bill language and also after consultation with staff, I am told that the term "elementary school" means a nonprofit institutional day or residential school that provides elementary education as determined under State law.

Does that mean a nonprofit private school falls under this? Does it mean, as I said before, that clinics that perform abortions are a medical facility? Does it, under the term "secondary school," mean a nonprofit institutional day or residential school that provides secondary education, as determined under State law, except that such term does not include any education beyond grade 12?

Does this mean private schools? I know that some private schools such as private parochial schools are not very wealthy. I also know that we all know there are certain private schools that are extremely well off.

Mr. President, I just think this is a wrong idea. It passed by a vote of 10 to 8 in the committee without a large amount of debate.

I hope we can strike this from the bill. I have no idea how much this would cost. I believe that we have spoken very loudly and clearly that unfunded mandates are something that we are rejecting. I urge the adoption of this amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BRYAN. Mr. President, I ask unanimous consent that we might return to morning business for 3 minutes.

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

Mr. BRYAN. Mr. President, I thank the Chair and the distinguished managers of the bill.

TRIBUTE TO CAPTAIN O'GRADY

Mr. BRYAN. Mr. President, the nation sighed with relief this morning as we heard reports that Air Force Capt. Scott F. O'Grady, the United States pilot downed by a Serbian surface-to-air missile, had been found in good health, and was resting comfortably on a United States aircraft carrier.

Yesterday, in the Senate Armed Services Committee, Secretary of Defense Perry and Chairman of the Joint Chiefs of Staff, General Shalikashvili, gave a presentation on United States policy towards Bosnia. As was clear from this hearing, there is little agreement on what United States policy should be towards this war-torn region, and many deeply troubling questions continue to surface regarding the depth of United States involvement in Bosnia, and the need for a strong and coherent United States and NATO policy.

But today, I would like to focus on a good news story, and extend commendations to Captain O'Grady and the American military personnel who were involved in his remarkable recovery.

Although details of the rescue effort are still being released, it is clear that many American military personnel put themselves at great risk in the all-out attempt to locate Captain O'Grady and safely bring him out of Bosnia.

The ability of Captain O'Grady to evade capture by the Bosnian Serbs for nearly 6 days in heavily wooded areas is a great tribute not only to the courage and survival skills of Captain O'Grady, but also to the outstanding training he has received as a U.S. Air Force pilot.

Equally outstanding was the courage and competence of the marines who went into Bosnia under extremely dangerous conditions. Early reports indicate two CH–53 Sea Stallion helicopters under attack by both Serbian surface-to-air missiles and small arms fire were able to land within 50 meters of where Captain O'Grady was concealed. The commander of these marines, Col. Martin Berndt, reached out, grabbed the young pilot, and took off in a matter of seconds.

Finally, many American pilots risked their lives during the past 6 days, flying through a highly sophisticated Serb integrated air defense system in an attempt to pinpoint the location of Captain O'Grady. Many of these flights were extremely hazardous routes in and out of thunderstorms. During the actual rescue mission, additional American pilots covered the Marine helicopters with fighter and electronic monitoring aircraft.

Mr. President, the training, competence and experience that led to the spectacular success of this rescue mission gives credit to the outstanding job done by Secretary of Defense Perry and General Shalikashvili, as well as Adm. Leighton Smith, the NATO commander for Southern Europe. But our highest tribute should go to the courageous young men who were on the ground in Bosnia or flying low overhead. They have demonstrated the best of our U.S. Armed Forces, and the quality of the young men and women we have defending our national security. And a special tribute must go to the remarkable young man, Captain O'Grady, whose actions and courage serve as an example for us all.

Mr. President, I yield the floor.

AIR FORCE CAPT. SCOTT O'GRADY

Mrs. MURRAY. Mr. President, I want to join the President, my House and Senate colleagues, and the American people in expressing my deep relief at the safe return of Air Force Capt. Scott O'Grady, who was shot down over Bosnia 6 days ago while on a NATO mission.

It is a tribute to Captain O'Grady and the Air Force that trained him that he was able to survive for so long under such difficult circumstances. And certainly we must all loudly applaud the brave marines who put their own lives on the line and rescued him under the most treacherous circumstances, braving both missile and small-arms fire during their 5-hour rescue mission, to pull one of their own to safety.

Captain O'Grady's family has no doubt had a week of anguish and hope, and I celebrate with them this wonderful news and the remarkable strength and courage of Captain O'Grady and the marines who come to his rescue.

Scott O'Grady, who is from Spokane, WA, is an inspiration to citizens across my State and this nation, and I am proud to join the many many voices today that are celebrating his safe return.

THE TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1262

The PRESIDING OFFICER. Is there further debate on amendment No. 1262?

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, as we know, the distinguished Senator from West Virginia, Senator ROCKEFELLER, on the Commerce Committee, has been the lead Senator on our side, and the distinguished Senator from Maine, Senator SNOWE, on the majority side of the Commerce Committee with respect to the public entities. They did not realize this amendment was coming up and they are on their way to the floor.

My friend from Arizona got some quick figures and questioned the figures I had given relative to the air fares. So let me once again state that the USAir fare from National to Charleston round trip is $628. United from Dulles round trip to Charleston is $628. There is a Continental flight at $608 round trip from National.

With respect to USAir going down to Miami, we talked about flying 500 miles further and of course the 500 miles coming back, 1,000-mile difference. There is a USAir $658 round trip to National, and if you walk up to the counter, there is a special of $478 for the 10 seats available that the clerk at the counter can give at that reduced rate.

Perhaps that is what was the case with respect to the quoted figure of going from Dulles to Charleston, D.C. to Charleston, the $249 fare round

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trip—that was the 21-day advance, nonrefundable fare under USAir.

In my investigation, though, it did prove salutary that I found out the Government fare to fly out from Washington to Charleston is $192, but the Government fare all the way out to Phoenix is $135. So we found out, in the airline industry, who the chairman is of the subcommittee on air travel.

I am going to get my office to call and see if I cannot persuade the Senator from Arizona to get me a little bit better consideration on this Government rate. They go 1,000 miles further, I say to the senior Senator, the President pro tempore of the Senate, 1,000 miles further and they get it $47 cheaper than you and me.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I thank the Senator from South Carolina for his additional information. The fact is, there are still one-way tickets available for $249. And the fact is, the number of departures from Washington, D.C., to South Carolina since deregulation has gone up 16 percent. The number of available seats since deregulation from Washington, D.C., to South Carolina has gone up 50 percent since deregulation. The President's Council of Economic Advisers has said that consumers have saved $100 billion since the airline industry deregulated.

I would also point out to the Senator from South Carolina, who is so enamored of the trip from Washington, D.C., to Phoenix, if I choose to leave from National Airport there is no direct flight. It has to stop someplace in between because of the arbitrary barrier to the markets imposed by the so-called perimeter rule, which was imposed by the former Speaker of the other body, Mr. Wright, which happens to reach the western edge of the tarmac at Dallas-Fort Worth Airport.

So, as one who commutes back and forth every weekend and has done so, now—this is the 13th year—I can assure the Senator from South Carolina I am in favor of far more deregulation. What the Senator from South Carolina calls distance market is what is called the free market. It is called supply and demand. When there are enough people who utilize a service the price of that service goes down.

It is a strange thing we find out when the free market works. If enough people want to use a certain service, and the cost of that service is divided up amongst more people, then the cost goes down. I am sure the Senator from South Carolina can appreciate that phenomenon. It has happened in the airline industry and the trucking industry and every other industry that we have deregulated. I am very sorry we are not going to see that in the telecommunications industry, because we have basically a bill that is more reregulatory than deregulatory.

But as I said earlier, I look forward to the opportunity of extended debate on the issue of airline deregulation with my friend from South Carolina, who obviously feels very strongly on the issue and has a lot of knowledge and experience. But I would remind him, the issue before us today is telecommunications deregulation, although I always enjoy a spirited exchange with my dear friend from South Carolina.

I thank him and yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, quickly because the Senator from West Virginia is here, the number of flights has gone up in the context of the population and travel. It certainly has not gone up in the context of service and price.

With respect to the service, now, those direct flights that I had are gone. I know it. I know it severely. I spend more time in Charlotte, NC, than I do in my hometown of Charleston.

I told Harvey Gantt, when he was mayor, I was going to run against him and run for mayor of Charlotte because I am beginning to know more people in Charlotte than I do in Charleston. With respect to price, obviously some time back, it was a round trip, $64. That is what I used to pay. It is now up to $628. Inflation could quadruple the price but not go all the way up to $628.

The price has gone up and I am subsidizing those long hauls. Eighty-five percent of the medium- and small-size towns in West Virginia and in South Carolina are subsidizing the long hauls out to the west coast and Phoenix, Los Angeles and the rest, because the airlines make money on those things. Because that is where, under the economy of distance and the airline fuel costs and the crew and everything else, nonstop, they can make the money. And we have to subsidize it.

The service has gone down, and the airlines are broke, and the Europeans are taking them over and we are thanking them for taking them over.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, there are times when I wish I had never offered an amendment in the Commerce Committee having to do with perimeters for flights, 1,250 miles, because the doing of that and the winning of that in the Commerce Committee has, I think, fundamentally angered my very good friend, the distinguished Senator from Arizona. I think it has caused a whole series of things to happen as a result. The hearing with respect to United Airlines, a hearing with respect to—well, no other hearings, but then I think this amendment. I think he was very deeply disturbed by that.

I just want to say one thing. As I walked in the door over there I heard him mention that $100 billion had been saved in terms of cost of deregulation of airlines. I want to inform the Senator from Arizona that—sure, a lot of that must have been saved in West Virginia. Because you do not get to West Virginia now by jet airplane. Yes, there are one or two. Corporations have theirs. But when I go it is by propeller. I remember when we had American and Eastern and United, and they came in regularly into our airports. That was years and years ago.

Within two or three months of deregulation it was gone. I am talking about this amendment when I am talking about airlines; that is what happens when the free market is allowed to entirely set what the rules of the game will be.

West Virginia has suffered substantially. West Virginia has suffered profoundly because of deregulation of airlines which is glorified by the Senator from Arizona and which is very deeply hurtful to the livelihoods of the people of the State of West Virginia who have to move to other States, often, because there is not enough work because businesses have to be able to count on reliable air service and they do not want it to be some small propeller plane where your chin is resting on your knees—as is the case in the seated position of the junior Senator from West Virginia.

It is incredibly important, not just to West Virginia but to every single State that has any part of it which is rural, that the amendment of the Senator from Arizona be defeated and be defeated soundly. We are dealing with some very, very fundamental principles here.

For example, as we build on this information superhighway we must include an on-ramp for students and adults to ensure that every American has the opportunity to plug in and be part of this technology.

The bill before us, ably shepherded through by Senator HOLLINGS and Senator PRESSLER, includes this amendment. I think this amendment—I said this a couple of times in the last few days—I think it is so important that this language stay that schools, elementary schools, secondary schools, no matter where they are, be included as part of the information process, that they be wired up, that public libraries be included as part of this process, which in many cases in rural areas and other areas they may not be and will not be, because, like airline deregulation, you go where the population is.

And, terribly important particularly for rural areas, that the telemedicine be available through rural health centers and through rural hospitals. And they will not be if the amendment of the Senator from Arizona prevails. They will not be because the market will not allocate the resources to make that available. I am as certain of that as I am of having to take a propeller airplane whenever I go to West Virginia. In fact, the only time that I do not take a propeller airplane when I go to West Virginia is if I go to Pittsburgh first. And the principle is exactly the same. The market will seek out where it is profitable to go as they are deregulated, as we will do and we will do

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with my full support in this bill, but where it is not profitable for them to go they will not go.

I want every Senator from every one of the 50 States—I do not care if it is New York State, which is thought of as being urban but has an enormous rural section, that people who live in Binghamton, NY, or Oneida or other places outside of that, they are not going to get service. Their elementary and secondary schools, their rural hospitals, their rural health clinics are not going to get service. They are not going to be wired up. They are not going to be part of this information highway. It is not going to happen because the market will make other choices.

As a result of that, I have said what I think is probably a hyperbole in listening to myself say it, but I find believing myself saying it so compelling that I need to say it on the floor of the Senate, that if this language is allowed to stay in the bill and, thus, if the amendment of the Senator from Arizona is defeated, this Senator as an individual junior Senator from West Virginia will probably have done more in one series of paragraphs of sentences in a bill to help his State than anything he has done in his public career.

I feel so strongly about that amendment. The amendment to strike this language is so wrong. It is so wrong for rural America. It is so wrong for places that cannot defend themselves. It is so wrong for choices that will be made by the marketplace to avoid elementary schools, secondary schools, libraries, rural health clinics, and rural hospitals. If you are not there with the technology, you might as well not be there.

If you are a kid, if we want to create in this country a first-tier and a second-tier society—and I am not talking about rich and poor in financial terms. I am talking about even more important terms; that is, having a future. If you want to have a two-class society in this country, those who know and those who do not, then you vote with the Senator from Arizona because that is what you will have. You will have people that go on-line, with America-On-Line, that can search and have their home pager and do all kinds of things, and they will make 15 percent more in salaries than people that do not have those abilities; probably 30 percent more.

I remind you that in the computer business, the productivity, the technology, has been doubling for the last 30 years every 18 months.

So what are these rural schools, what are these rural hospitals to do when they are not wired up? I cannot imagine anything that affects the future of this Senator's State, of the State of the Senator from North Dakota or the Senator from Nebraska in a more fundamental way in terms of its young people finding a chance to take their place in America as citizens with possibilities and pride and confidence than how this amendment is disposed of.

Senator PRESSLER and Senator HOLLINGS have worked together and have kept this as a part of the bill. They deserve praise for that.

I want to share one story. Then I will sit down and yield to the others. I will have more to say about my home State of West Virginia and this amendment, which I feel is just—I feel so strongly that it has to be defeated for the sake not just of my State, but of every State, the rural and the out-of-the-way parts of every State. Let me share one story about West Virginia. It has to do with the West Virginia Library Commission, which is a very aggressive group. They have very aggressively worked for years to develop the network, and they recently won a Federal grant to provide computers for over 150 libraries in our State.

Our State commission is currently investing in that equipment and training for every library to be linked to the internet. But each library must pay for its own telecommunication link, and they cannot. My wife Sharon and I have our farm in Pocahontas County. That is one of those little public libraries—when I was a Governor I was there—a little octagonal building that uses solar ray because they cannot afford the fuel. And it is interesting to use solar panels in that part of the State because the sun does not shine that often. It rains 45 inches every of year. There is no way they can possibly match.

So that is taking the students of Pocahontas County, WV, and condemning them to second-class citizenship in terms of going into a library or the adults who want to improve themselves through library services. They are struggling financially. They cannot match. They cannot pay what they would be required to pay.

We have something in this law called "public interest." If there is ever a case of public interest, it is that people who are born in poor circumstances, in rich circumstances, in rural areas, in urban areas, or somewhere in between on either of those fronts have an equal chance in terms of the education system and the computer system and the health system of this country.

No, we did not pass health care last year. Maybe we bit off too much. But here is something we can bite off which will really help. It is called telemedicine. It will only affect those parts of the State which are rural, and they will never get it unless the amendment of the Senator from Arizona is defeated and defeated soundly.

Our part of the bill on this is not intended to give something away for nothing. It merely assures financially strapped public institutions like libraries and schools will get affordable rates for access.

There are many others who want to speak. I will speak more on this subject. But I say again that the defeat of this amendment, I think, is central to the bill. I think it is central to the future of the young people and adults of my State. I have rarely felt so strongly about anything in my public life.

I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I rise in support of the amendment.

Some provisions of the legislation I believe are not necessary would promote bureaucratic intervention and intermeddling in the system. I believe the provisions of the legislation which will provide for subsidies and will provide for special privileges for certain entities is unnecessary.

I believe that the suggestion that this is similar to the airline industry is misleading and counterproductive. The truth of the matter is that technology is going to change dramatically the impact of distances as it relates to the transmission of data and information. If you are bouncing information off the satellite, it does not matter whether you are in a rural area or in an urban area. It does not matter whether you are in a remote area or an approximate area. They are all equally accessible in that respect.

So to speak about the airline industry and the amount of traffic that is generated to one area, and that that traffic somehow does not justify a lower cost to that area like it does another area ignores the fact that the transmission of data, especially the wireless transmission of data, simply really does not have costs related to the location of the receiver of the data.

The data can be transmitted or received via satellite regardless of the location. So I do not think it is particularly instructive to try to get bogged down in the debate over airline deregulation here. We are talking about a different technology. And arguments which are locked into the technology of the past are based on ideas like the airline technology and what it takes to transmit a passenger instead of transmitting data, those are misleading arguments.

The provision which is, I think, noble in its objective to try to help us have educational institutions with good access and health institutions with good access would require a costly accounting procedure and intermeddling by governmental entities to try to determine what would be "reasonable rates" or what would be "incremental costs."

If we say that elementary schools, secondary schools, libraries—and, incidentally, that is not public libraries in the legislation. The word "libraries" is used without reference to whether it is public or private—if we say that they are entitled to special rates for the transmission of data or communications which they would choose to transmit or provide, it seems to me that we have set up a provision which requires governmental rate setting, governmental cost accounting, and massive and significant intervention of the Government in this process. And if those rates are established by the Government at less than the full cost of

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the proceeding, that means everyone else who uses the system is going to be subsidizing the overall cost of these institutions and these entities.

Much has been made of the rural setting and the fact that it might be a lot more expensive according to some that in order to have provision of telecommunications to rural settings——

Mr. PRESSLER. If my friend will yield for a unanimous-consent request, it will take 30 seconds.

Mr. ASHCROFT. I will be happy to yield.

Mr. PRESSLER. Mr. President, there has been agreement on both sides for a vote on the McCain amendment at 3:30 today and that the time between now and then be equally divided—I do not intend to use mine; I will give it to anyone who wants it—in the usual form with no amendments in order to the amendment.

Mr. KERREY. Reserving the right to object.

Ms. SNOWE. Reserving the right to object.

The PRESIDING OFFICER. There was no unanimous-consent request made at this point. There was an explanation.

Mr. PRESSLER. I ask unanimous consent that the vote occur on the McCain amendment at 3:30 today.

Mr. ROCKEFELLER. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. KERREY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. I thank the Chair.

In order for some groups to have a specially reduced rate of services, other groups will have to pay and subsidize that rate for service. Now, whether those services are laudable or important or necessary or would not otherwise be available is debatable. There seems to be the thought that a lot of rural hospitals exist now without telecommunications access. I have been to many rural hospitals during the last year. I actually worked in several rural hospitals. They all have a number of the kinds of transmission devices that were very important to transmitting and receiving the kinds of things that would be involved in telecommunications. All of them had cable television, coaxial access, and the like.

The point I would make here is that on page 132 of the bill, at lines 19 through 22, it provides that the rates would be affordable and not higher than incremental costs.

This places the Government in a position of having to try to ascertain what affordable rates are, having arguments about what incremental costs are, and injects the Government back in the process of regulation at the micro level. I think it is counterproductive. I pointed out that it not only applies to schools, elementary and secondary, but it applies to libraries, and it does not mean that it is only public libraries. The statute just says "libraries."

I wonder if you might literally have a library that became an electronic library. It could be commercial in nature but it could provide information on the telecommunications highways but demand the right to do so at subsidized rates merely because it is mentioned in this section.

It occurs to me that the promise of telecommunications deregulation means that access to new service, both digital and wireless, is going to be available to individuals around the country and institutions around the country. It also occurs to me that as that access is available and becomes cheaper as a result of the proliferation of services—and it is estimated that our costs in telecommunications will go down very substantially—a bureaucracy to start setting rates and to regulate the rates and to provide special subsidies for one part of our society as opposed to another is not only unnecessary but is counterproductive.

So I stand in support of the fact that the marketplace will do a good job of providing service. And I just elevate for your consideration something of what has happened in terms of cellular phones. Some have indicated that because there are rural areas there would not be cellular phones. My State, which has substantial rural area, is covered with cellular phones. Virtually every part of the State is accessible to them. And I was charmed the other day, when meeting with some cellular phone operators, to find that one of the rural cellular operators includes in the package that is offered free long-distance phones so that if you pay for time on your cellular telephone, you can call anywhere you want to in the United States of America at the same rate you can call the next phone.

This is sort of the prejudice that they are alleging, I suppose, is going to ruin us if we do not have this micromanagement in the telecommunications industry.

That is not prejudice at all. That is just the fact that entrepreneurs are at work in rural America as well as they are in urban America, and as a matter of fact in rural America sometimes telecommunications services are substantially enhanced and can even be at a competitive advantage, comparably stronger, offered with a more attractive array of advantages and features, than they would in the urban setting.

It is with that in mind I think this amendment is well taken, that I think it is unnecessary to set rates and to have micromanagement and special privileges and subsidies built into this bill at a time when telecommunications is going to be more and more available as a result of technology, when the rates will be going down as a result of a proliferation of providers and services. And for us to single out a few groups, some of them inordinately narrow, perhaps providing additional advantages to public schools as opposed to private schools, some of them inordinately broad, providing this subsidy to all libraries, however they may be defined or constituted, it seems to me this section would be a section without which we could do well. And for that reason I support the amendment as proposed by the Senator from Arizona.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER (Mr. COATS). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I grew up in North Dakota, in a town of about 300 people. I graduated in a high school class of 9. It is always interesting to come to the Senate floor and listen to folks who talk to us about the marketplace and competition and the advantages of this free market system as the allocator of goods and services. Frankly, in my hometown, a small town 50 to 60 miles from the nearest big town, which was 12,000 people, we did not receive a lot of the marketplace advantages that big cities have. And we did not complain a lot about it. We had a lot of other advantages living in a small town. We did not have a theater in Regent, ND. I guess you have a theater in big towns.

I do not come to the floor of the Senate suggesting somehow from a public policy standpoint we need to have theaters in my hometown or in small towns in order to enjoy the arts. We missed out on a lot of the advantages that the market system brings to big communities because the market system works in search of revenue and income and profits.

The market system works when competition is developed around a circumstance where competitors can provide a service or sell a product and make money. Where are they going to do that? They are going to do that where people live because the more people, the bigger the market, the more potential for profit.

That is the way the market system works. We understand that. All of us have likely studied Adam Smith, who talked about the cloak of the invisible hand in the market place. Adam Smith would be rolling over in his grave these days because he preached these things before there was the modern convenience of the corporation —the artificial person that is born, lives, and never dies. Adam Smith actually talked about the marketplace and the cloak of the invisible hand when we had people who participated in the marketplace who lived and then died.

But, in today's marketplace, the corporations dominate and they do not die.

It is a different life and a different time. So Adam Smith, I suppose, would adapt.

It is useful, I think, to talk about this issue of deregulation and the issue of airlines, even on this amendment. The Senator from South Carolina was,

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I think, still addressing the core subject when he talked about deregulation of airlines on this amendment, because this amendment really provides an opportunity for people to see competing visions of what we ought to be doing.

Some stand up and say, "It doesn't matter what it is." It does not matter if it is communications, health care, transportation. It does not matter what it is, let the market system decide who gets served, when they get served, and how they get served.

I am glad we had folks in Congress who did not believe that back in the thirties when they decided how to move some electricity around to provide advantages in this country and nobody in the world wanted to serve the farms in rural America because it was too expensive. If you had one customer for every 2 miles, you are not going to run a line out there and try to serve a farm because it is not profitable. The result, if you lived out in the country, is you did not turn on a light switch because you did not have electricity.

Congress said there are some things universal in nature, some things everybody ought to enjoy the advantage of in this country. Electricity was one. So enough people in Congress felt differently than those who propose this amendment, and said, "Well, we understand the marketplace, we understand competition, but we understand also there are some universal needs one of which is electricity." Therefore, they constructed an REA Program and brought electricity to farms, electrified rural America, and unleashed productivity never dreamed of before.

That would never have happened if we worshiped at the altar of the marketplace and said rural America will get electricity as soon as the utility companies decide to run a line out there. When will that be? Never.

The Senator from South Carolina, as he stood and spoke about this amendment, talked about airline deregulation. Airline deregulation had at its roots the notion of let the marketplace decide who gets air service, at what price, and what convenience in this country.

We know what has happened with airline deregulation despite all the little statistics and charts people keep bringing to my attention. If you live in rural America and you access airline service, you have less choice and higher prices. It is a plain fact. If you live in Chicago, God bless you, then you have more choice and lower prices. That is just the way it works. There is no denying it. All the data in the world demonstrate that is the case.

"Oh," some will say, "gee, there are more little flights here and there." Yes, there are little propeller airplanes running around. The fact is the minute a regional jet carrier tries to start out, one of the large carriers tries to squash them like a bug and do it successfully. I think it is interesting what is happening in the airline industry is the big have gotten bigger, the big carriers have gotten much, much bigger by merging and absorbing little carriers.

Those on the other side of the aisle who preach competition and who talk about the virtues of the marketplace never stand up and say, "Wait a second, when the big get bigger and you concentrate more power in the hands of the few, you have less competition." In other words, those who bring these amendments to the Senate floor talk about the virtues of the marketplace, preach about competition but they do not practice it. If they practiced competition, they would care about ending up with only four or five very large airlines who have absorbed all the regional carriers. You do not hear that. You never hear from the folks who talk about competition, what we need to do to keep competitive and what we need to do to fight monopolistic tendencies.

In the airline deregulation issue, it was decided that the Department of Transportation shall make judgments about whether a merger is in the public interest or not, and the Justice Department shall be consulted.

Mr. President, do you know what has happened? What has happened is a merger is proposed by a large carrier buying up a smaller carrier and it goes to the Department of Transportation. The Department of Transportation raises its hands and says, "Hosanna, this is just fine, we have no problem." The Department of Justice says, "No, this is not in the public interest," but the Department of Transportation approves it anyway.

That brings me to the telecommunications bill. We have the same problem. They say, "Let's defang the Department of Justice and let the Federal Communications Commission decide when the regional Bells should be allowed to enter into long distance. What is the competitive test, when does competition exist and when does it not, regarding local and long distance services."

Same old thing. We apparently have not learned with respect to airline deregulation and giving the Department of Transportation the authority and rendering the Department of Justice to a consultative role.

Some of us will offer amendments on the role of the Justice Department, which I hope the Senate will accept. If we are going to stand here preaching competition on the floor of the Senate, let us all practice the virtues of competition. Let us nurture the benefits of competition by deciding that we want competition in a real way to exist in this country.

I do not understand sometimes those who say there is no other interest we have except having the marketplace and the potential profits dictate who gets what in this country. There are apparently no other influences or interests they have in terms of what advantages Americans should enjoy, what kind of things are universal in nature—transportation, communications, and others.

I recall a book written by Upton Sinclair as a result of research he did at the turn of the century. I do not want to ruin anybody's dinner, but Upton Sinclair is the person who toured the meat packing plants and discovered the scandal of the rats in the meat packing plants. Producers put arsenic on slices of bread and placed them around the meat packing plant so the rats would eat the arsenic and die. The rats died and they shove the bread and the rats in the hole with the meat, and they produce the mystery sausage. That is what America was eating.

Upton Sinclair said this is what is going on. Then America rose up and said, "We don't want to eat that." The barons of industry producing meat laced with rat poisons and rats apparently going down the same chutes were pursuing profits but not very interested in the health of our country.

So Congress said maybe we ought to inspect meat. Maybe those folks who say the free-market system should not be interrupted are prepared at this point to say, "Let's not inspect meat because we are inconveniencing the folks who run the meat packing plants." Maybe we should not inspect airlines for safety because we inconvenience the airlines.

I have heard some disciples—not anybody in the Congress—but I have heard the free market advocates and some of the theorists suggest if people are putting out bad infant formula, babies will die and people will realize that the company is selling bad infant formula. Pretty soon, consumers will not buy any more infant formula and the company will go bankrupt. So the penalty for killing babies is bankruptcy.

Maybe the same theory is on airline safety. You do not have a Government role on airline safety. If the airline is not safe, if they do not have their own internal safety mechanism, planes crash and people will say, "We won't fly that airline anymore, and, therefore, the market system is a self-regulatory system, so we do not want to worry about airline safety," they would say. "We don't have to worry about meat inspection," they would say. "Those are all inconveniences to the market system. Let's let the income stream of the market system and competitive forces determine who does what in this country."

I have taken a long tour to get back to the central point. I recognize that. This is a perfect place for us to talk about the differences between us and them, and by them I am talking about those who stand and say there is not a public good that is involved here when you single out libraries or hospitals in rural areas with respect to rates charged and the buildup of infrastructure of the actual communications industry. They say, "No, that's meddling, that's tinkering." We have heard all these voices before. They say the market system will work, and if the market system does not get these services to those rural areas, to those hospitals,

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to those schools, those libraries, then tough luck, it was not meant to be.

I would appreciate it, if anybody is keeping score, if they would put me down as a meddler, at least a tinkerer. Maybe someone who believes that it is worthy as we build up the infrastructure of telecommunications to have some on-ramps and some off-ramps, yes, even in the smallest portions of this country, even in rural towns, even at small libraries, even in rural hospitals. If we do not believe that, as far as I am concerned, I do not want to participate in building it. Is that selfish? Probably. But I come from a part of the country where they crossed with wagon trains, years and years ago, to get where they were going, and they understood back then the concept of moving together. You did not move wagon trains ahead unless all the wagons were ready. You do not move ahead by leaving some behind. That is part of the focus of this debate, I believe.

This can be a remarkable opportunity for our country by seeing the explosion, the breathtaking new technology in telecommunications that improves our lives. But it can also be the development of a system of communications, producing services and products that leaves out a significant portion of our population if it is not done properly.

I hope that as we go through this debate, we will expose over and over again the basic conflict between the two theories expressed on this floor—one by some who say let the market system allocate and decide and do not meddle and worry about whether folks in the rural areas are beneficiaries of this breathtaking new technology. And others of us say, no, this is something of a more universal need and a more universal nature, and we want all of America to benefit from it.

That is what this amendment is about, I suppose, and why I oppose it. I think it contravenes that basic need that we have in this country to make sure all Americans benefit from the potential good that comes from this new telecommunications industry.

So, Mr. President, I would like to make one additional point. I know that the chairman of the committee and the ranking member are very anxious to move forward. We have a vote ordered now or one that is about to be ordered. Is there a vote pending at this point?

Mr. PRESSLER. No. We are working on an agreement.

Mr. DORGAN. I understood earlier this week that the antiterrorism legislation should be moved quickly, and I cooperated with that. It was important to do that. The majority leader was absolutely correct. But I do not think there is a compelling need to suggest that we ought to be dealing with hundreds of billions of dollars in American industry and the rules for the telecommunications industry and be worrying about whether we get 20 or 30 minutes to fully debate something that is going to have a profound impact on our country. Let us take some time on these amendments and explore them thoroughly, and let us have good debate and substantial debate, and then let us make judgments.

But there is no reason, in my judgment, to believe that we have to finish this bill by 6 o'clock tonight or 9 o'clock tonight or 10 o'clock tomorrow. This bill ought to take whatever time it needs for us to devote our best energies and intellect to make sure this is the right thing for our country.

Mr. President, I yield the floor.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Senator from Maine.

Ms. SNOWE. Mr. President, I rise in very strong opposition to the amendment that has been offered by Senator MCCAIN. It certainly is disturbing to think that some Members in this body cannot accept a provision that will provide affordable access to rural schools, libraries, and health care providers, given that we have become part of the information age, and this issue is absolutely critical to our Nation's future.

The Senator from Arizona has offered an amendment that will strike the provision that was offered by Senator ROCKEFELLER, Senator EXON, Senator KERREY, and myself in the Commerce Committee which requires telecommunications carriers, upon a bona fide request, to provide important telecommunications services to schools and libraries and rural health care providers.

This principle of affordable access is not a new concept. The universal service concept has been embodied in our national telecommunications policy since 1934, to ensure that all parts of America had access to the telephone. It was important to ensure that all Americans had access to the essential service at the time, telephone service.

But universal service needs to be updated, and in fact, the bill recognizes that universal service is an evolving concept. The bill presently ensures universal service for telemedicine, and educational services, which I believe will make a difference, not only for America and its ability to compete with other countries, but also for individuals in preparing themselves for the work force of tomorrow, which we know will be constantly changing. And ensuring that our Nation's children gain access to the important technologies of the future will make a significant difference in the standard of living they and their families will enjoy for years to come. That is what this amendment is all about.

The Senator from Arizona, Senator MCCAIN, is offering an amendment to strike this language. His amendment will result in a nation of technology haves and have-nots, and that is not an outcome that I am willing to accept.

I do not believe that we in Congress should pass a new telecommunications policy—I might add, the first revision of the Communications Act since 1934—which divides our Nation between the telecommunications haves and the have-nots. Many of the telecommunications providers are going to reap enormous gains from this legislation. Most will, and some will not. But the point is, in deregulating the telecommunications industry, we must make sure that we do not deny important areas of our country affordable access to telecommunications services.

We know the densely populated urban areas will benefit from deregulation. They will have the benefit of all of the advances in technology for today and tomorrow and thereafter. But what about the rural areas? We know now that telecommunications services are far more expensive in rural areas than they are in urban areas, for example, access to Internet costs more in rural areas because the Internet nodes of access often are not in local calling areas, meaning that rural consumers must pay toll rates.

What is going to happen now? If we do not guarantee some affordable access to telecommunications services in rural schools, libraries, and health care centers, where are they going to be tomorrow? Where will our Nation be? It is in our national interest to ensure that these areas are part of the information superhighway.

If we want young people to be familiar with technology and to have it become second nature to them, to understand that it is their future, I cannot understand why we would support Senator MCCAIN's amendment, which would take out the one provision that provides enormous public gain for all of America.

Look at telemedicine. It is the here and now and it is the wave of the future. I have talked to many rural health care centers in my State of Maine. They need affordable access to telemedicine. They need the help so that they can provide the same kind of services and health care for their rural constituents as enjoyed by residents of more densely populated areas.

I received a letter recently from Eastern Maine Health Care Services, which is located in a rural area of the State. They write:

> In the past several months, a network of hospitals have begun to collaborate in our region of Maine. One of the outstanding issues within that group is the need to use telemedicine as a tool for providing cost-effective quality health care from the smallest to the largest towns in our region. Telemedicine in our region is defined as the transmission of data —voice, image, and video—over distance. We have come across many obstacles in this endeavor, but one of the greatest obstacles is the transmission of these media over the present telecommunications lines at an affordable cost. Many of the hospitals and health centers in our service area have extremely limited funds.

I thank the Senator, the chairman of our committee, Mr. PRESSLER, for including important refinements to this language in the managers' amendment. I know that there are some, such as the sponsor of the amendment to strike this language, who believe that the

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marketplace should be free of regulations and that somehow, someway, affordable telecommunications will be available for everybody at affordable rates.

Other Senators have mentioned here on the floor today, as an example of deregulation and the impact that it has had on many rural parts of our country, the impact of airline deregulation. I can certainly speak firsthand to that, as far as how it has affected the State of Maine. It certainly has denied us the kind of airline service I would have thought might have developed from deregulation, and it simply has not happened.

Many of the areas that at one time had the benefits of airline service—and I might add jet service—do not even have the benefits of commercial airline service.

Our largest city in the State of Maine, Portland, ME, is losing jet service as a result of deregulation. That is occurring this year.

Since we have had deregulation—this is about 17 years ago —the situation has gotten worse. It has not improved in the rural areas of our country. That is a fact.

I can speak to it firsthand because I use those airlines every week. We have commuter services. We do not have jet service for the most part, anymore, in the State of Maine. Most of the areas, like Presque Isle and Portland, that used to have jet service do not have the benefits of commercial airline service.

So that is why I cannot understand why we want to apply the same notion here when it comes to telecommunication services. What will happen to the rural area? Who will make sure that our schools, libraries and health care centers are going to have the benefits of our national information infrastructure, if we do not provide for that in this legislation?

House Speaker NEWT GINGRICH said "If our country doesn't figure out a way to bring the information age to the country's poor, we are buying ourselves a 21st century of enormous domestic pain." He said, "Somehow there has to be a missionary spirit in America that says to the poor kid, the Internet is for you, the information is for you."

Well, that is exactly right. But I think that we have an obligation as a Nation to ensure that our young people have affordable access to this kind of service.

The National Center for Education Statistics reports—and I think it is interesting to note these statistics because I think it proves the point—that 35 percent of public schools have access to the internet, but only 3 percent of all instructional rooms, classrooms, labs, and media centers in public schools are connected to the internet.

Of the 35 percent of the schools with access, 36 percent cited telecommunication rates as a barrier to maximizing the use of their telecommunication capabilities.

Some would suggest that the Snowe-Rockefeller-Kerrey amendment is opening a Pandora's box, a new array of entitlements for schools, libraries and hospitals. No, it is not.

As I said earlier in my remarks, universal service provisions for residential consumers existed in the bill prior to the adoption of this amendment, to this legislation, in the committee.

Those provisions guaranteed access to essential telecommunication services for residential consumers. Our amendment simply provides that assurance for key institutions in rural areas. Our objective is to ensure that rural areas are on an equal footing in terms of schools, libraries, and health care facilities in urban areas.

I should also mention the fact that we have worked with some of the Bell telephone companies to address their concerns. We made some changes in the language, to address their concerns about incremental costs language. The revised language ensures affordable access to educational services for schools and libraries, and discounts will be determined, as for residential consumers, by the joint board in conjunction with the FCC and the states. The discount must be an amount necessary to ensure affordable access to use the telecommunications services for educational services.

Some have suggested that these discounts would be wasted on some communities with poor schools, low literacy rates, high levels of unemployment, or other social problems. I disagree. This language will open doors, not close them. Those communities stand to gain enormously from the telecommunication network. It will open up a whole new world to these communities. Senator MCCAIN's amendment will deny those gains, benefits, and opportunities for troubled areas.

We do not know what the future will be all about. We do not have a crystal ball. We do know, however, that technology and the information age is going to be very much part of our future, I think in ways which we cannot now fully anticipate or appreciate even today.

This is the first time we have addressed telecommunication policies, I mentioned, since 1934. There probably will be years and decades before we come back to this issue as a Nation and as an institution.

How can we seek to deprive some areas of the country of the knowledge that they need in order to thrive and to develop, and to be productive for the future, for their future and this country's future?

Knowledge is power. To cut some areas off from the information superhighway is not only denying them the future that they deserve, but it is denying the kind of future this country deserves, because their future is going to affect America's future.

I hope that the Senate will reject this amendment of Senator MCCAIN to strike out our universal service language, which, I might add, is not a new concept. In fact, it is interesting to note that the Commerce Committee in the last Congress approved a bill by a vote of 18 to 2 which contained adopted similar language on this very issue, extending the universal service concept to these key institutions, schools, libraries and rural health care facilities. Last year's bill went even further than this year's bill—it contained universal service discounts for museums and zoos and so on.

We narrowed our language to ensure that we were just addressing the needs of key entities that are so important to the development of this Nation.

Funding is a major barrier to access, it is the one that is most often cited in the acquisition of users of advanced telecommunications in public schools.

Smaller schools, with enrollments of less than 300, are less likely to be on the internet than schools with larger enrollment sizes. Only 30 percent of the small schools reported having internet access, while 58 percent of schools with enrollments of 1,000 or more reported having internet access.

So we know that there is a gap between the high expectations of an increasingly technologically-driven society and the inability of most schools, particularly rural schools, to prepare students adequately for the high-technology future.

Almost 90 percent of K through 12 classrooms lack even basic access to telephone service. Telephone lines are used to hook up modems to the internet. When classrooms do have phone lines, schools are typically charged at the corporate rate for service. Schools and libraries in rural areas often pay more for access to information services because the information service providers are not located in the local calling regions, meaning they have to make long-distance calls.

A recent study conducted by the U.S. National Commission on Libraries and Information Science found that 21 percent of public libraries had internet connections. Only 12.8 percent provide public access terminals. Internet connections were 77 percent for public libraries serving a population base of more than 1 million, but declined to 13.3 percent for libraries serving fewer than 5,000. Maine, I might add, has a population of 1.2 million. The largest city representing Maine has no more than 80,000 people.

I hope that Members of this body would understand the importance and the value of maintaining the language that we have included in this legislation. It is so important to our future and to our children's future. It is fundamental that we, as a Nation, assure that all areas in America have access to essential telecommunication services for the future.

I, for one, will not vote to deprive schools and libraries and hospitals of the affordable telecommunication services that they need and require.

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I hope that Members of this body will vote to defeat Senator MCCAIN's amendment. His amendment will go a long ways toward denying the important opportunities that we should afford our young people. No matter where they live in America, everyone should be entitled to have access to the information superhighway which will be so much a part of our future. So I urge Members of this body to defeat the McCain amendment.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I want to speak just briefly on this amendment that Senator MCCAIN has offered to strike out section 310 of the telecommunications bill and indicate my strong opposition to that effort. The provision which he is intending to strike was added by the Senator from Maine in the committee markup with the help of the Senator from West Virginia and I know with the urging of the Senators from Nebraska and others. I think the provision that was adopted in committee is an excellent provision and one we need to keep in the bill.

I became interested in this set of issues because of the needs in my own State of New Mexico to provide telecommunications services to rural schools in particular, but also to rural hospitals and to rural libraries. In our State, we have one model program which came to my attention several years ago, and that is at the Clovis Community College on the east side of New Mexico. It is a 2-year school. They began a pilot project several years ago to provide instruction from that community college into nine of our rural high schools in that part of the State. We still have, today, in this school year which is just now ending, classes taught at the community college that students in those small, rural high schools are able to access in their own classrooms. That has been a very successful project and it is a model for what we ought to be doing throughout my State and throughout this entire country.

However, we are not able to do it throughout my State and throughout this entire country because of the enormous cost of taking advantage of telecommunications services. What is needed is special provisions, special rates so that educational services can be provided to schools at reasonable cost; and can be provided to rural hospitals and rural libraries at reasonable cost.

I am persuaded that technology can either be a great boon to mankind and to the people in this country in coming years, or it can prove to be a great divider of our people. Either it will help us all to pull ourselves up and realize the opportunity that is present in this country, or it will further divide the rich from the poor, the urban from the rural, the "haves" from the "have nots."

The provision that the Senator from Maine proposed in committee, which is now in the bill and which we need to keep in the bill, goes a long way toward helping us ensure that technology brings us together instead of dividing us. I do think it is essential that we take some action in this area as a public policy matter. You cannot leave everything up to the free market system.

I heard the Senator from North Dakota speaking, Senator DORGAN, earlier this afternoon. He was pointing out that left to its own devices, the free market system will provide technological opportunity and new technology and benefits to those who can pay the bill. We want that to happen. But we also want some access to that technology for those who may not be able to pay as much and that is what this provision is intended to do.

There is another example in my State which I just would allude to because it is a very small example but perhaps one that people can understand. There is a small community in New Mexico called Santa Rosa, which is east of Albuquerque on our Interstate 40. That is the community that you have to go to if you live in Guadalupe County and you want to go to high school. You have to travel to Santa Rosa.

North of Santa Rosa about 60 miles is the much smaller community of Anton Chico. If you live in Anton Chico you have school right there up through the elementary level, and then you have to get on a bus and travel 60 miles each way to go to high school.

What the school district there in Guadalupe County has done very effectively, is use telecommunications to provide instruction from the Santa Rosa schools to a classroom in Anton Chico, for those students who wish to continue past the eighth grade and take instruction in the ninth grade without having to travel all the way to Santa Rosa.

This has allowed them to keep students in that school for that extra year, and in many cases keep those students involved in education long enough that they will stay in school through twelfth grade.

This is dealing with a very, very real problem we have in New Mexico of students dropping out. They drop out for a variety of reasons, but one of the reasons that students drop out in some of the rural parts of our State is because of the physical problems of getting to the high school that they need to attend each day.

Modern telecommunications services can help us to solve this problem. One of the great opportunities that we have as a country, as we try to improve our educational system, is to take proper advantage of new technology to keep students interested, to help students raise the standards that they are achieving in school, and to eliminate the difference that exists between the quality of instruction in urban schools and that of rural schools.

In order that technology is successful or is able to help us in this regard, we need to deal with the problem of the cost of using that technology. This provision allows that. I hope very much we will keep it in the bill. It is one of the better provisions in this telecommunications bill and I think it would be a very sad day if the Senate were to agree to strike this part of the bill.

I compliment the Senator from Maine, the Senator from West Virginia, the Senators from Nebraska, and others who have worked hard to get this provision in the committee-reported bill. I urge my colleagues to keep it in there and to defeat the McCain amendment when it comes to a vote.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I want to try to give a sense of a little bit of the overview of this, and do it within a relatively short amount of time. I want to also say that there have been some very constructive conversations that have been taking place, which reflect themselves in the managers' amendment.

For example, there was a very constructive conversation yesterday afternoon involving the Senator from Maine, the Senator from Nebraska, Senator KERREY, myself, and others with, for example, Bell Atlantic, which represents my State, Ameritech, NYNEX. We were able to reach accommodation in a very constructive, positive way, in ways which are reflected in the managers' amendment. So I do not want people to think this is kind of a pitched battle only. There have been some people who have been trying to do some good work on this, on both the corporate and senatorial side.

I have to say we have heard some absolutely amazing statements from the Senator from Arizona and some of his allies. Make no mistake about what they are trying to do. They are trying to say to all of these telecommunications giants: Go ahead and charge exorbitant rates on the backs of America's schools and libraries and rural health institutions, and keep those community institutions off the ramps of learning and telemedicine. Or go ahead, in the alternative, and milk schools and libraries for as much money as you can get.

I can fly, under airline deregulation, from Huntington, WV, to Washington, DC, in 1 hour. But it is cheaper to fly from Washington, DC, to Los Angeles. I think you understand the point. Where people think they can put it to you and they are in a profitmaking business and they do not have a sense of corporate responsibility or a broader picture, as some that I have mentioned do have, they will do it. And they have done it. And it hurts.

We should reject that kind of thinking out of hand in this Chamber. Private telecommunications companies

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are being given an open ticket in this bill to get into new businesses, exciting businesses, important businesses, making all kinds of profits and reaping incredible dividends. And I do not object to that. I do not object to that. I think what we are looking at is an extraordinary excitement.

I had dinner with the President of a computer company last night—with six of them, in fact. He said within a very few years any citizen of the world will be able to talk with any other citizen of the world directly, through e-mail or some such, based upon the name of the person, the service that the person provides, be it a business or a location. There will be worldwide direct person-to-person communication in as fast a time and with as much clarity as you pick up your local telephone to dial your mother-in-law.

All we are doing in our provision is to say, in return for this explosion of excitement and opportunity and profits, which create, indeed, more opportunity for all of that growth, for all of those profits that you will now be able to get your hands on, make sure that you bring libraries, schools, and hospitals along with you. That is called a *fair deal.*

Mr. President, let us be clear about what the Senator from Arizona is trying to do also with this amendment. This amendment strikes a dagger into the heart of Main Street U.S.A. Just about every issue associated with the telecommunications industry sounds incredibly complicated and confusing. As soon as you start talking about it, the jargon and the terms are from a world of their own—cyberspace, internet, on-line, you name it.

The Snowe-Rockefeller-Exon-Kerrey amendment in this bill—and the one that the Senator from Arizona wants to strip from this bill—has an extremely simple, basic mission. It is the way to make absolutely sure that America's schools, elementary and secondary, libraries and rural health care institutions are part of this information superhighway that is unfolding before our eyes. I do not think anyone is confused about what we mean when we say that schools, libraries, and rural hospitals should be one of this country's and this body's highest priorities. Without a doubt, I can say that is how the people of West Virginia feel—that our schools, our libraries, and our rural hospitals and clinics are a lifeline that we hold most dear. And that is true for all States.

The provision in this bill, and the one being attacked by the McCain amendment, which we hope loses, designates these vital institutions—again, schools, libraries, rural health facilities, and hospitals—as community users and then requires communications companies to charge this category of community user affordable rates for universal service. Through this part of the bill, we guarantee that America's children and library users and health care providers in rural communities can take advantage of the exciting range of technologies that are in fact the new roads, the new interstates, to education and lifesaving medical information.

I applaud the Senator from Maine, OLYMPIA SNOWE, for her work in incorporating this provision into the telecommunications bill. It is her amendment. Together we presented this idea to our colleagues in the Commerce Committee, and her commitment to this idea helped win the day when we had the vote on our provision. Both Senators from Nebraska, Senators KERREY and EXON, have been stalwart partners in this work. This provision, section 3010 of the bill, is a major reason to enact telecommunications reform. Looking at it from my State's perspective, it is the major reason. This is a historic chance to ensure that schools, libraries, and rural health care providers will acquire affordable access to advanced communications services, not only now but in the future, and all kinds of possibilities that we can only begin to imagine today.

The telecommunications bill before us, carefully crafted by Senators HOLLINGS and PRESSLER, presents us with an opportunity that will not come again. It is time to unleash an industry into the realm of competition, innovation, job creation, product creation and profit. But in return, Mr. President, we should make sure that the most basic institutions of our community and our society can hitch a ride onto this great journey.

Once a few of the kinks and other parts of this bill are worked out—by that I mean things that are being worked on by the leadership as I talk—the passage of this bill will be good news for business, good news for workers and consumers, and good news for our country as a whole. And it will be great news for our basic institutions, the institutions through which all of us have to pass in order to achieve adulthood—schools, libraries, in this case rural health facilities—because they know they will not be left behind. If the McCain amendment passes, they will be left behind. If it is defeated, those schools, libraries, and rural health facilities will not be left behind.

The Senator from Arizona thinks this is a part of the bill that can be amputated or weakened. If that is what he thinks, let me be very, very clear about what that means to schools, libraries, and rural health institutions. You are telling the organizations that are the bedrock of America that they will just have to stay on the back roads of communications. The organizations with the big money and clout can speed their way onto that information superhighway as fast as they want. But the institutions that educate our children and our adults, that serve Americans with the keys to knowledge, that treat and cure the people of rural communities will have to settle for the back road.

Mr. President, I do not want anybody to be at all unclear about this. One of the things that we have learned in the Commerce Committee and in our own conversations is, if we think the world has begun to change in terms of telecommunications up until this point, we have not seen anything yet. Remember, I said a moment ago that every 18 months the capacity of computers has doubled for the last 30 years. That is going to speed up. So what we are talking about now is going to be far greater in the future. Therefore, what we deprive people of now will hurt much more in the future than we can possibly imagine.

Our provision in the bill says to these institutions that they will have their place on the modern roads of telecommunications—schools, libraries, rural health clinics, and hospitals.

We intend to open the new worlds of knowledge and learning and education to all Americans, rich and poor, rural and urban. Browsing a Presidential library, reviewing the collections of the Smithsonian, studying science or finding new information on the treatment of an illness are becoming available to all Americans through new technologies in their homes or at their schools, libraries and rural hospitals. And our provision, the one that the Senator from Arizona wants to strike, is designed to make sure that these links do get made to our children and citizens.

Mr. President, our provision is targeted. It promises affordable rates to institutions that are the heart and soul of the communities of the United States of America, and we all know it. Our provision deals with the new realities and opportunities that face schools and libraries and rural health institutions in the towns and States that we all represent—every single one of us—rural or urban.

We hear a lot about the explosion of computers in America's homes. But let us keep in mind that a lot of families cannot afford their own computers and equipment for their children.

They cannot afford that. This Senator can. Some other Senators here can. Most people cannot. We are talking, Mr. President, about thousands of dollars that many, many families in my State of West Virginia and elsewhere simply do not have for this kind of purchase. The Presiding Officer may be aware that in 1994, for the first time, the purchase of personal computers surpassed the sale of television sets in this country. The Presiding Officer may be aware that those who are on Internet are now 30 million, and that that number is growing at 10 percent per month, but it is not growing in Welch, WV. It is not growing in Alderson, WV, and it is not growing in the Presiding Officer's rural areas and some of his urban areas because the people do not have the capacity to get on line to join up with that information highway.

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Schools and libraries are the institutions that serve our communities and that serve our children, no matter what. That is why we want to make sure that these institutions can count on affordable rates to get on line, to tap into telecommunications services and to bring in the learning and the information from distant places for our children and adults and other users to learn from.

No matter where one lives, we want every citizen to have a chance to go to the local library and visit a world of information available as a result of these new technologies.

I am very sorry to hear some talk of different ways to achieve our basic goal. Let us face it. Some communications companies do not want to be forced to offer rates to even the most basic institutions serving our communities. But let me be clear. Our approach is the simplest way to achieve the simplest goal I believe that all of us support—affordable access to communications that these community institutions in fact do need. The Snowe-Rockefeller-Exon-Kerrey part of this bill provides the way to ensure that elementary and secondary schools and libraries have access to essential universal telecommunications services, which will be defined, incidentally, by the universal service board described in this bill, at rates that are affordable. The affordable rate will be determined by the FCC and the State commission, depending upon whether you are talking interstate or intrastate.

What does this mean for thousands of elementary and secondary schools in America? A 1995 study by the National Center for Education Statistics discovered, to my shock, that only 3 percent of classrooms in public schools in America were connected to something called Internet, which is the whole future, a large part of the future—only 3 percent. Why? One reason has to be the lack of funds to even buy the equipment.

But another reason, which becomes more serious as schools do scrape together the money for the one-time expense of buying equipment, is their inability to pay excessive rates to hook into those services. It is one thing to have the computer on the table or the desk. It is another to have that hooked up to the wall and then through that wall to the other wall. That is expensive.

Look at the study of the U.S. National Commission on Libraries. They found that 21 percent of public libraries are connected to the Internet. And I thought that was pretty good news. But that figure then suddenly drops to 13 percent when it comes to public libraries in rural areas and small communities.

Why does it drop? Because there are libraries that do not have the money and will not have the money to pay commercial rates to be on-line. And therefore you just count them out of it.

I described in Pocahontas County—and I see my senior colleague from West Virginia here—the small, octagonal library that was barely scraped together, the only library in the county. It is one of the largest counties east of the Mississippi and it has about 7,000 people in it. And we scraped together the money to put that octagonal building up, all made of wood and put solar panels on the outside because fuel is expensive.

Now, of course, there is a problem: it rains 45 inches every year in Pocahontas County so the solar panels do not work, so they have to spend money on fuel. But that is typical of a rural community, of a library trying to make it. And then you ask them on top of that to have to pay money to hook up to these information systems. It cannot work and it will not work, and it is not fair to those people. Why is somebody born in a big city any better than somebody born in a small rural area? The answer is he or she is not. But I refuse to be a part of creating a two-tier society. We appear to be on our way to doing that in other ways. I do not want it to be done in terms of the ability to learn and to grow.

In West Virginia, our schools are determined, by hook or crook, to get computers into every one of our 900 elementary and secondary schools because our Governor has made it a priority and so has our Bell Atlantic company. They have made a special project of West Virginia. Classrooms in 50 different places already can connect to Internet. But this is not the way most of it works, Mr. President. This is a special set of circumstances.

Let us be clear. If the schools of West Virginia cannot count on affordable rates—and that is what this part of the bill is about—many of them are never going to be a part of the world that telecommunications offers regardless of what they have.

Teachers in West Virginia cannot wait to use these computers, Mr. President, and their links to distant places. They are excited about it. It transforms them as it transforms us as we get into the business of learning computers. They want to get into libraries. They want to get into colleges, to courses on every topic imaginable, to art collections, to whatever for their students. They have come before the Commerce Committee and boasted about what they can do for their children in schools when they have computers.

Think of what this means for children of small schools in remote towns in West Virginia or South Dakota or Alaska or South Carolina or Maine. Through their computers, students can take a language class that is being given in Texas, visit a museum's collection on Fifth Avenue in New York, communicate with a computer pen pal in Asia or Russia or South America, and explore the jungles and the rivers and the plains of distant places to learn about science and biology and nature. Extraordinary opportunities, if it will be provided for them.

Most classrooms in America still look the same as they did 60 years ago when we wrote the first telecommunications act. They have chalk and blackboards, desks and chairs. Yet, with the tools of our modern-day office, how can we possibly expect our children to become productive, informed, innovative contributors to the economy out there, beyond the schools, when they learn with a blackboard and they do not have a computer? It will not work. If our children are to use technology thoughtfully and appropriately, they must have access to it in their formative years.

Our bill also has a special provision to guarantee access to the health care providers in rural communities, like rural hospitals and clinics, by promising them universal telecommunications services at rates reasonably comparable to the rates charged urban health care providers, language carefully worked out.

Why do we single out our health care providers in rural areas? Why do we do that? Because their remoteness makes it far more likely that they cannot afford the cost of telecommunications that are now being used to save lives and help train health care professionals and provide other critical services. Most of this is known as telemedicine. It is the wave of the future. It is what is going to hold down the cost of health care.

My own home State of West Virginia is a pioneer, as Senator BYRD well knows, in the frontier of telemedicine. Our mountaineer doctor television program that we are struggling as best as we can to make work has created a network using interactive video and other telecommunications services that hooks up two of our academic health centers to our large teaching hospitals, two veterans hospitals—two veterans hospitals are involved in this—and six hospitals in rural areas, all hooked up and linked together through this network. Senior medical professors and practitioners are guiding and training physicians at hospitals hundreds of miles away.

Just about a week ago, a resident in one of West Virginia's rural hospitals was confronted with a broken neck. He had never treated this resident, obviously, and had never treated a broken neck before. Thanks to that mountaineer doctor program, called telemedicine, the chief of emergency medicine at West Virginia University helped that resident through the steps of stabilizing that patient and preparing a transfer of that patient to a more sophisticated medical facility.

Through this telecommunications network, West Virginia's chief of neurology helped a medical student and primary care doctor in a Grant County hospital determine if a Medicare patient was suffering from Lou Gehrig's disease. This consultation by interactive video saved that patient a brutal

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140-mile trip, allowed him to remain comfortable in his own community's rural hospital, and saved Medicare about $2,500 in extra costs. Examples like this go on and on and on just in West Virginia.

I know from listening to statements made by Majority Leader DOLE, by the chairman of our committee, Senator PRESSLER, and my good friend, the Senator from Montana, Senator BURNS, that they are among many in this body who know all too well what telemedicine means to their States. Talk about being rural, you better talk about Montana, as well as West Virginia and Maine.

Again, the Snowe-Rockefeller part of this bill simply ensures that these institutions can count on affordable rates to take advantage of telemedicine and other unfolding communications technologies. Affordable telemedicine will allow patients in rural America to receive in their own communities the care they need. They will not have to suffer the costs and the hardship of travel, and they will be able to receive care at their local hospital, thus helping to preserve that hospital.

The Snowe-Rockefeller language is an economic development tool and it is an empowerment vehicle. It ensures that our children will become productive members in a world that is growing more technological and competitive every single hour. It ensures that our citizens in rural America will be able to stay in their communities and receive quality health care. It ensures that we will not create information haves and have-nots in our country.

I will close, Mr. President, and I apologize to my colleagues for the length of what I have said, but I wanted to lay this out. One of our colleagues who is opposed to this bill and who supports the McCain amendment, which I hope will be defeated or tabled, said on this floor earlier that rural hospitals and rural clinics already have access to affordable rates. That is absolutely without any merit or basis in truth whatsoever. The lack of adequate telecommunications infrastructure is a major barrier to the development of telemedicine and those systems in our rural communities.

Let not that statement get by. Rural areas have the equivalent of a dirt road when it comes to telecommunications. When Texas implemented one of the very first telemedicine projects in the country, they found that people still had party lines in west Texas—party lines. They had to install dedicated T-1 lines at very significant costs because T-1 lines are powerful instruments. Basic startup costs are coming down, but according to all the experts in this field, transmission costs must be lowered to make telemedicine economically feasible.

The small rural hospital in West Virginia was told that it would cost $4,300 a month to hook up with a major, larger hospital for administrative and quality assurance support. They decided they could not afford the technology, and so they did not do it. And there you have it.

The University of Arizona, not a small rural hospital, established the Arizona international telemedicine internetwork in 1993. They used straight telephone lines and they used compression to transmit static images. They say cost is a barrier to upgrading. According to them, their carrier—in this case U.S. West—has been inflexible in making any sort of cost concessions.

Mr. President, I have said what I want. There are many others on the floor who want to speak. I was determined to try and give a broad overlay of what the Hollings-Pressler bill does, and I have done my best to do so.

I yield the floor.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. Mr. President, I rise today in support of the language that was passed by the committee, which my friend, the Senator from Arizona, is proposing that we strike. I would like to speak to that part of the bill that makes advanced telecommunications more affordable to public schools and libraries.

During the consideration of the telecommunications bill last year, I offered legislation very similar to the language that we are considering today, to ensure that every school and classroom in the United States has access to telecommunications and information technologies. I proposed an educational telecommunications and technology fund to support elementary and secondary school access to the information superhighway.

Regrettably, last year's telecommunications bill was not taken up by the full Senate before adjournment. The provision in the bill before us, introduced by Senators SNOWE, ROCKEFELLER, and KERREY of Nebraska, will make advanced telecommunications connections more affordable for schools and libraries. Specifically, the provision allows elementary and secondary schools, as well as libraries, to receive telecommunications services for educational purposes at an affordable rate.

Currently, schools all over the country, including those in my own State of Virginia, are forced to pay business rates for access to the information superhighway. That means that schools are subsidizing residential customers. Without more affordable rates, schools, by the thousands, will not have adequate, and, in some cases, not have any access to the Internet. As a result, too many American children will be left by the wayside.

For those of our colleagues that have any doubts about the value of electronic communications in the classroom, I challenge them to sit down at a computer with Internet access and surf. They will be visiting one of the most up-to-date and fastest growing libraries in the world. You can chat with experts from across the globe. You can set up the video link with teachers at distant schools using a small camera costing as little as $100. You can share data or results in a joint research effort spanning continents. You can take an electronic tour of the White House, or visit the so-called web page of a Member of Congress. I have such a page, and many of our colleagues have those, Mr. President. You can even see images of molecules or galaxies. The possibilities are endless.

In discussions with school administrators, it becomes clear that students are fascinated by the Internet. Students that might otherwise be indifferent are eagerly pursuing new subjects and sharing their newfound knowledge with the global community of students.

Simply put, Mr. President, the child with access will be at a distinct advantage and better prepared for future employment. And those without access are simply going to be left behind.

We cannot afford to let our school systems slip behind those of our leading competitors when the technology is at our fingertips—the technology that was pioneered here in the United States.

Mr. President, I urge our colleagues to support the most cost-effective education we can offer our Nation's children. I urge my colleagues to support the Snowe-Rockefeller-Kerrey provision and oppose the amendment offered by my friend from Arizona.

Mr. President, I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I see my friend from West Virginia, Senator BYRD, on the floor. I will be brief, I say to my colleague. I know he has been waiting for some time.

I just have a couple of comments to make. Our States have done a lot in this area. I know that, for example, some of the States in the South have done things.

This describes that in the State of Alabama, there is pending approval within the next few days where the Educational Network Service will offer DS-1 and 56-KBP service for any educational institution at a discount rate.

In Florida, there is legislation waiting signature, where the LEC's are required to provide advanced communication services to eligible facilities, including public universities, community colleges, area technical centers, public schools, libraries, and teaching hospitals.

In Georgia, the Public Service Commission approved the Southern Bell reduced rate telephone service for schools, called the Classroom Communication Service.

In the State of Kentucky, the State government provides high-volume discount access to schools, hospitals, libraries, and government agencies.

In Louisiana, all schools in Orleans Parish receive an additional 33-percent

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discount, and public and parochial schools pay residential rates as opposed to business rates.

Mississippi has two special pricing arrangements targeted toward education in the classroom communications services, distance learning, and transport services.

South Carolina has somewhat the same thing.

Tennessee has in-classroom computer access service, distance learning, video transport service, et cetera.

Mr. President, the fact is that nearly every State in America has some kind of accommodation for this. I am appreciative of the fact that the Senator from West Virginia may not share my view about the role of the Federal Government versus the role of the State government, but the fact is that the State governments, who I think are much better attuned and much more cognizant of the needs of their respective States, are doing these kinds of things. To my view, this is vitiating the requirement for, again, another unfunded mandate, which this is.

Mr. President, I heard the Senator from West Virginia, who makes some very emotional arguments that there are some libraries that will never be able to afford a computer, or some hospitals. Who are they, Mr. President? So to cure the problem we are just going to give a blanket agreement to wealthy, private schools, wealthy hospitals, wealthy libraries. There is no means testing. If the Senator from West Virginia and the Senator from Maine had, in any way, brought in some kind of provision for means testing as to who needs it and who does not before we proposed this unfunded mandate, I would have been much more open to some compromise or agreement on it. I am sorry that virtually all schools, all hospitals and libraries are going to receive this.

Mr. President, I think we are being a little discriminating in our morality here. I would like to see the Disabled American Veterans have this same kind of facility. They are people who have fought and served and sacrificed. Do they deserve something? I do not see them included. What about the Veterans of Foreign Wars and the Salvation Army? They are organizations I have admired enormously. They get all of their funds from contributions, at least about 95 percent of them.

What is it that makes us discriminate with these institutions and not with others? I understand that—and I was not told this directly by the Senator from Maine—she intends to make a motion to table this amendment. If this amendment is tabled, then I may have an amendment expanding this to other needy and deserving Americans, and groups of Americans that also may be as equally as deserving as private schools are, for example, or as wealthy hospitals are, or the Getty Library.

So I think that the flaw here, Mr. President, is who are we really trying to help, and who are we not? It seems to me that there are many who are deserving of our help who are not included in here, and there are many who are not who are included. I would like to see us be much more discriminating.

I believe the whole thrust of the American people is that they believe local government is best. I would like to see the States be able to continue what they are doing and tailor what is best for their respective communities and localities and counties and cities and towns, rather than the Congress acting in a far more sweeping and all-encompassing fashion.

Mr. President, I yield the floor.

Mr. BYRD. Mr. President, I thank the Chair.

I rise in strong support for the provision authored by my distinguished colleague from the State of West Virginia, Mr. ROCKEFELLER. I oppose the attempt to remove it from the bill.

It has long been an axiom in the development of America that rural America be provided basic telephone services, under the concept of universal service. Universal service is, again, a central part of the bill before us. Mr. ROCKEFELLER's amendment, together with the distinguished Senator from Maine, Ms. SNOWE, attempts to ensure that our schools, our libraries, our health care facilities have access to the best that is available across our country for the well being of our children, our elderly, our rural dwellers at affordable rates. This amendment allows a child in Beckley, WV, to access the Library of Congress to enhance his education, allows the provision of medicine from the best facilities in America to be available to health care providers in communities which cannot afford to have all facilities available at their fingertips. It is a mechanism to enhance standards throughout the country. It is a force enhancer, a multiplier, an advanced bootstrap for rural America at reasonable cost.

I have, for the last several years, supported funding for medical doctor's television, so that experts in universities can conference with doctors in rural remote areas so that they have the best that medicine has to offer in the State. The Rockefeller provision extends this concept for all citizens to have access to the best that is available across the country. This is the fruit of the technological and telecommunication revolution that is meaningful, that makes sense, and will build human capabilities and infrastructure in our land.

I commend my colleague for this provision. It is a builder of communities throughout our land, a benefit that our technological progress gives us as a society. I support the provision, and urge my colleagues to defeat the amendment.

I yield the floor.

Ms. SNOWE. Mr. President, I just want to address a couple of points that have been raised by Senator MCCAIN because I think it is important to address his comments with respect to what would be provided, and to whom, under the manager's amendment that was incorporated in the legislation which Senator MCCAIN seeks to strike.

I cannot think what would be more in the public's interest than schools, libraries, and hospitals. As I said earlier, in the last Congress, the Committee, on a nearly unanimous vote, sought to provide universal service to zoos, aquariums, and museums. We do not include those entities under this language because we think we should strictly limit it to very essential institutions, schools, libraries, and rural hospitals.

Universal service happens to be a national priority. That is what this issue is all about. Senator MCCAIN said leave it to the States. States are involved, in the sense that there is a joint board in this legislation that will help determine the rates for the communities under the universal service provision.

But this happens to be a national priority, a national issue, and it is too important just to leave it to the States on an ad hoc basis and say whatever happens, happens. The States are certainly doing their best. They understand the importance of this issue, and have been very innovative and progressive. But they cannot do it alone. Presently, there is a disparity between the States.

We all recognize how important the information age is to the future of this country and to individuals and to families. It is so important, and therefore I think it requires a national policy and should be established as a national priority. Certainly, universal service can be supplemented by the States. The fact is, they cannot do it alone.

This is a major telecommunications policy. If that was not the case, we would not be here discussing today the amendment before the Senate.

But it is an important telecommunications policy. It is essential that we establish some parameters to universal service. There may be a day when it will not be required. But right now, we need a transition with respect to telecommunications. That is why the universal service language becomes an imperative.

We have to recognize the changes that have evolved and will continue to evolve over time. We have to anticipate the needs of America. I cannot think of entities with a greater need to affordable telecommunications services than schools, libraries, and rural hospitals. I never would have expected anybody to have questioned that.

The language in the bill extends the idea, included in the Communications Act of 1934, of universal service. That is all we are saying, with the language in the bill, sponsored by myself and Senator ROCKEFELLER and Senator KERREY and Senator EXON and adopted by committee. The language simply extends universal service to schools, libraries, and rural hospitals.

Under the language, essential telecommunication providers will get reimbursements. They can recoup the

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discounts given to these public entities from the universal service fund.

In the case of schools and libraries, the discount is an amount necessary to ensure affordable access to telecommunications services for educational purposes. This is a modification we made in the managers' amendment that was offered last night.

By changing the basis for the discount from incremental cost to an amount necessary to ensure an affordable rate, the Federal-State joint board in conjunction with the FCC and the States have some flexibility to target discounts based on a community's ability to pay.

The discounts will not be indiscriminate, as the Senator from Arizona suggested in his previous remarks. There will be some parameters, because we do not have an unlimited fund.

There have been a number of letters from supporters of the language in the bill that various Senators have received. I would like to quote from a couple of them. I think it gives everyone an idea of the importance of this issue. One letter that I will quote from is from an education technology specialist.

She writes to one Senator, and I received a copy of this letter:

Two key issues for rural States like ours are affordable and equitable access. Cost is the barrier cited. A recent survey shows only 3 percent of the Nation's classrooms have access to Internet or use information services for instructional services. Preferential rates for school and libraries at cost would be a step toward eliminating this barrier. As a Nation and as a State, we must recognize the need for improvement in our educational system and seize the opportunities offered by technology and telecommunications. The dream of access, equity, and excellence for all Americans for life means acting now to ensure these essential elements for better education, bound in decisions currently under consideration. We urge you to make certain the voices of K through 12 educators are heard and their needs addressed in the drafting and passage of this legislation.

In another letter:

I hope that Members of Congress will stop and consider the impact that schools and libraries had upon their lives. Then, if they will project what these entities can provide when they are equipped with appropriate connectivity, we can begin to understand the quality of true education our young people will possess that will equip them for bright futures. With your help, thousands of young lives will be able to experience the rush that comes with free exploration of knowledge sources.

And then we received a list of different associations that are supporting this legislation, again, I think, expressing the thought that this legislation and this provision is so important to the future of this country. The organizations are part of a coalition supporting affordable telecommunications access for our Nation's schools and libraries, and there are a number of different associations. I am not going to read them all, but I ask unanimous consent to have them printed in the RECORD, Mr. President.

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

SUPPORT AFFORDABLE TELECOMMUNICATIONS ACCESS FOR OUR NATION'S SCHOOLS AND LIBRARIES

Supported by a coalition including:

American Association of Community Colleges.
American Association of School Administrators.
American Association of School Librarians, a division of the American Library Association.
American Council on Education.
American Federation of Teachers.
American Library Association.
American Psychological Association.
Association for Advancement of Computing in Education.
Association for Educational Communications and Technology.
Association for Supervision and Curriculum Development.
Center for Media Education.
Coalition of Adult Education Organizations.
Consortium for School Networking.
Council for American Private Education.
Council for Educational Development and Research.
Council of Chief State School Officers.
Council of the Great City Schools.
Council of Urban Boards of Education.
Educational Testing Service.
Instructional Telecommunications Council.
International Society for Technology in Education.
International Telecomputing Consortium.
National Association for Family and Community Education.
National Association of Elementary School Principals.
National Association of Secondary School Principals.
National Association of State Boards of Education.
National Education Association.
National School Boards Association.
Organizations Concerned about Rural Education.
Public Broadcasting Service.
Software Publishers Association.
The Global Village Schools Institute.
The National PTA.
Triangle Coalition for Science and Technology Ecucation.
United States Distance Learning Association.

Ms. SNOWE. For example, the American Association of Community Colleges, the American Association of School Administrators, American Association of School Librarians, American Council on Education, American Federation of Teachers, American Library Association, the American Psychological Association, the Council of Urban Boards of Education, the Educational Testing Service, the National Association for Family and Community Education, National Association of Elementary School Principals, the National Association of Secondary School Principals, the National Association of State Boards of Education, the National Education Association, the National School Boards Association, the National PTA, the United States Distance Learning Association.

That gives you an idea of the cross-section of organizations and associations across America that support this language. Even I was surprised at the extent to which the language that we incorporated in this legislation received such strong and widespread support.

The FCC Chair, Reed Hundt, recently stated:

There are thousands of buildings in this country with millions of people in them who have no telephones, no cable television, and no reasonable prospect of broadband services. They are called schools.

This all goes to show how important this issue is. I hope that Members of this Senate will oppose the McCain amendment and will continue to support the provision that is incorporated in the managers' amendment and in the underlying legislation that was supported by members of the Commerce Committee—not a unanimous vote but a broad vote—because this is so important to the future of this country.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Several Senators addressed the Chair.

Mr. HOLLINGS. Mr. President, I wanted to suggest the absence of a quorum. The distinguished Senator from Nebraska who cosponsored the amendment has not had a chance to be heard.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection.

Mr. PRESSLER. Reserving the right to object, I will not object.

The PRESIDING OFFICER. You cannot reserve the right to object to calling off the quorum.

Mr. PRESSLER. I withdraw my request.

Ms. SNOWE. Mr. President, I ask unanimous consent to withdraw my tabling motion and to vitiate the yeas and nays.

Mr. PRESSLER. Reserving the right to object, and I will not object. Senators are doing different things. We are trying to give a little advanced notice when these votes will occur. I am not trying to cut anybody off or anything of that sort. I am wondering if we could vote—I ask the Senator from Nebraska when he would suggest we have a vote.

Mr. KERREY. I appreciate that. What I would propose is that I make my statement. We have been led to believe there are a couple of other people who would like to speak, but if they do not make it down to the floor by that

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time, we might be able to set a time relatively quickly after I get done talking. I just do not know whether there will be other Members actually getting down, having said they are coming.

Senator MCCAIN asked earlier. I said it could be 6 or it could be 8. I think we pretty well heard most of the arguments on this particular proposal.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Maine to vitiate the yeas and nays and withdraw her motion to table?

Hearing none, it is so ordered.

The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I ask unanimous consent for an agreement to vote at 5:15. Or would that be objected to?

Mr. KERREY. I object to that.

The PRESIDING OFFICER. Objection is heard.

Mr. KERREY. Mr. President, I say to——

The PRESIDING OFFICER. Does the Senator from Nebraska seek the floor?

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. You run a tight ship, Mr. President.

I say to the Senator from South Dakota, I am not trying to unreasonably object. I am uncertain as to how much longer is a reasonable time.

I myself would be surprised if I am going to talk for 30 minutes, and if no one comes down here at that particular time, between now and the time that I stop I think we can put a time on this pretty quickly.

Mr. President, again I hope colleagues understand that this bill is being asked for largely by American companies and corporations that would like to do things, lines of business they currently cannot do. I have heard colleagues after I have said that say, no, we have lots of people in our State who really understand and would like to have this.

That may be the case indeed. On this particular section there are quite a few people who understand the potential and positive impacts. Indeed, I would argue that—perhaps somebody has a countervailing argument—but I would argue, of all the sections, this section has more Americans excited about what might happen if this proposal were to become law. There has been more straight grassroots citizen support for this section of the bill than any other section of the bill.

We have heard from companies, we have heard from a whole range of people. The Senator from Arizona raises some valid and interesting points. I do not dispute all the points he raised.

But one of the points that is raised, dealing with K–12 education, where we have the largest amount of support, the distinguished Senator from Maine earlier read off a list of organizations that are in support. I will not go through all these again: American Association of School Administrators, the American Federation of Teachers, the National Education Association, school boards, and other people who understand that, if you leave the status quo in place, these schools are going to get further and further behind. That really is a given. It is not going to go away.

When the distinguished Senator from Arizona comes and says there is lots of progress being made out there, it is true there is progress being made. But colleagues should not be taken in by that argument because this law takes away the incentives that schools have used to get State public service commissions to negotiate for them. That is what has been going on.

What has been going on in Georgia and other States is that they have negotiated and given the regional Bell operating company the right to price differently in exchange for connecting the schools. They did not do it for eleemosynary reasons or as a consequence of saying we can give away a little of our cash flow. They did it to get something in return.

Mr. President, this legislation goes into every State public service commission, and says you shall allow price cap regulation. There is no more incentive for an RBOC to negotiate the sort of things we have seen happen in State after State after State.

So understand that the reason that section 310 is needed in this legislation—and it is contained significantly, I point out to colleagues, in the title III portion that calls for the end to regulation—is because in other sections of the bill, we take away the very incentives that have been used to get the progress that we have been seeing in other States.

So do not come to the mistaken conclusion that if this title is stricken you are going to continue to see the kinds of progress that we have seen in States. You will not see it. It will stop.

I would like to make a point and talk a little about why we need this. Again, I understand there are lots of other areas of concern—libraries, hospitals, and so forth. My No. 1, 2, and 3 concern is the educational environment. The question is why is it important? Is there a sense of urgency attached? Is there any reason for us to be excited about this? Is there any reason to believe that the promise of this technology will be different than the promise that lots of us heard 40 years ago when people were saying we are going to put this television set in your home. They bring a television set into your room, into your home. Television was going to be a great learning technology. We are going to learn more. That was the idea. In some cases, with children's educational television, we have seen some improvement in test scores. But for many of us adults, we hold I think the correct conclusion that television has produced a distraction, larger and larger volumes of time being consumed with young people watching television, not doing homework, not doing the work required in school, and as a consequence, people say maybe this technology is just another one of those items, just another promise to do something, another easy solution to the difficult work of education.

Mr. President, this technology is different. Computer technology is much different than we have seen in other educational applications, in other technology applications. We can cite research. You can use anecdotes. You can talk about any measurement you want out in your local community. But computer technology, particularly when it is network and particularly when there is access to a database outside of the school, particularly when the network concludes a connection between the home and the school itself, there are advances in mathematics, impressively so. There are advances in reading, almost counterintuitive for those of us who have seen this technology. How can you possibly learn to read and write better? But there are improvements in test scores in both areas when the technology is available to young people.

The fact of the matter is this technology does offer substantial hope to do something for public education that a lot of us have begun to believe—we are wondering whether anything is going to work. We are wondering whether anything is in fact going to do something to turn around what we see as decline in test scores in many significant areas.

I note that the National Assessment of Educational Performance not long ago said that high school seniors, a full third, cannot read at the basic level; that approximately a third can read at the proficiency level or above, down 10 percent from 2 years ago. You cannot graduate from high school anymore—and half of our young people will graduate and go right into the work force and are not able to read and write, and do multistep mathematics, to be able to think in creative, in complex ways, and expect to earn very much in the workplace. It may have been true when most of us went to high school and graduated that you could do that, but not anymore. Today you have to know more. You use that computer in the workplace, and you have to know a lot more besides the sorts of things that were required when I got out of high school in 1961.

Mr. President, there is an urgency attached to this section. That is what I am trying to describe to my colleagues. Not only is there a demand for it. Not only in this case do we have people in the community saying: Senator KERREY, this is one where I know it is going to help. I am not certain about all the rest, and I am a little bit nervous about what is going to rate telephone or cable. I do not know about all this promise about new jobs. I have some stats I am going to talk about later when I talk about this promise of employment. An awful lot of people

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were turned out onto the bricks as a consequence of technology. They get a little nervous when I tell them there are going to be a lot of jobs. They do not know about all of that. They say to me, I know because I have seen computer technology work in my home. I have seen it work in the school. I know it can work. We are trying to network it inside our school buildings. We are trying to make progress there.

What are we up against? We are up against a number of things. The people are saying to me and with schools that I have worked, that the principle among those things is that if you want to fund it, you have to fund it out of property or sales and income taxes.

I am going to get to a subject that will probably put my colleagues to sleep because I talk about it perhaps too much; that is, how we fund not just education, but how we fund other things that we try, other services that we try to provide to our people. In the State of Nebraska, we have about 275,000 people in the K through 12 environment. We have 275,000 people over the age of 65. We spend $1.3 billion on that K through 12 environment, and $4.5 billion on people over 65. Now, the source of revenue for retirement and health care is payroll taxes. It is relatively easy to get that from people in the work force; apparently about 16 percent of total wages. The source of revenue for the schools is property, sales, and income tax.

The incremental cost expenditures from the schools will be $50 million against the $1.3 billion base. On that retirement and health care data, the differential is going to be close to $500 million. The reason the cost increase is so low is that the people at the local level are saying: We are fed up with property tax increases, and we are not very excited about sales and income tax increases, either. And our schools get squeezed.

I had a rather unpleasant encounter with an educational organization that said this is not going to be a big deal because it is only going to address the cost to the schools, about 16 percent, and phone activity is not a problem, and affordable dial tone is not a problem. It is a problem. It is true that States have been able to negotiate with the public service commissions. But that only affects interLATA costs. It does not affect long distance calls, and it does not let these kids get on line and access databases in long distance education. It does not provide the kind of high-speed activity these schools need.

We are not asking for a bailout. Schools are still going to have to put a ton of money in software, a ton of money in hardware. They are going to still have to make a good-faith effort and contribution in order to make this work. This is not a subsidy that is unreasonable. It is a subsidy that is not only quite reasonable but it is a savings. If we do not provide it, we are going to lose a tremendous opportunity to bring education technology to our children and give them. I think, a learning tool that can enable them to increase math, increase reading, increase verbal scores. I have seen it work. I have looked, as I said, at research data. I have seen anecdotal evidence, as well. It in fact gets the job done.

Mr. President, one of the arguments again that we hear a lot, or at least I have heard a lot—I am not sure how much it applies to this particular amendment; perhaps it does, perhaps it does not; I believe it does—is that we are giving special attention to a particular group of people, and that they do not deserve the special attention. I am not really talking about the comments of the Senator from Arizona. I heard comments made by others. Why would we want to single out one particular group? We have 100,000 school buildings in the public school system, 16,000 school districts out there, 45 million students, government-run operations, pure and simple, and we have to figure out some way to help them out.

But what very often is annoying to me is the argument—and I have heard it from the business sector, mostly; it is made by businesses who have been given special protection, who have been given a monopoly franchise, and now are complaining when we give somebody else special attention. It is not like the RBOC. It is not a mom-and-pop started in Charleston, SC. This is a regulated monopoly. It is not like they started from scratch or something. It is with tremendous cash flow, and tremendous resources.

I am prepared to let them compete. I am prepared to provide deregulation to them so they can get out there and go head to head. I think there will be benefits from it.

But please spare me when it comes to trying to help 45 million school children with this argument that I am giving them special attention. For god's sake. You would not even exist were it not for a franchise granted to you by the people of the United States of America. At least, that is how I see it. I would be very interested to hear, and I asked earlier if the Senator from South Carolina would be willing to give his own description of that.

It seems to me that when a regional Bell operating company—I have good friends, at least I used to have good friends in that particular sector—when they come and say why would you want to provide special attention to these schools like this, it seems to me that I am deserving of saying to them, well, did we not give you a special franchise? Did we not give you a special right to do business in a monopoly way? And did we not keep all the internet competition away so that you could do all this stuff over the years?

Am I missing something, I ask my friend from South Carolina?

Mr. HOLLINGS. If the distinguished Senator will yield. I think he is right on target with respect to the regional Bell operating companies. They are not just a guaranteed monopoly but a guaranteed return on investment.

But they used to have a percentage return of profit, and they did not like that because they found, quite to the point, if they could get what they said, pay caps, the actual size and operation growing, minimizing, of course, the general cost of operation, and superimpose on that downsizing, which is firing, to me, the employees—and everybody thinks this is a wonderful thing, that everybody is downsizing, but that is what they are doing, and so they are increasing their return on investment but more particularly what they call the operating cash flow margin. That is the principal measure of the financial worth of a company by Wall Street and the financial community.

Specifically, I say to the Senator, I have a chart—I swore I was not going to use charts, but I am going to have to get this one blown up for the Senator because I have the operating cash flow margin by industries from computers to chemicals, household products, autos, trucks, alcoholic beverages, long-distance companies, the soft drink industry, semiconductors, railroads, drug industry, electric utilities, petroleum-producing corporations, and, of course, the regional Bell operating companies.

This is a small sort of chart. We will have it enlarged. But you can see right at the bottom edge, in the lowest so-called operating cash flow margin of 10.3 percent is computers. Come right on up midway, 19 percent for the long-distance companies, and for the regional Bell operating companies it is 46 percent. It is above all the others.

If you want to get to the actual return, you would find in Standard & Poor's in a composite of the top 1,000 corporations in America, their average would be 10.4 percent, but the regional Bell operating companies is 16.6 percent.

Now, if you want to go then up to their cash flow margin, as they call it, that would be 46 percent rather than the average of 34.1. If you go up to the actual operating income margin, it is 26 percent with the U.S. average of 10 percent.

But they tell me in the financial community, if the Senator will give me just a second more, it is not only the 46 percent, but we had it in those hearings that the RBOC's had a cash flow of about $5.5 billion. They paid some $600 million in taxes, Mr. President. I think the distinguished Presiding Officer was there when this was brought out. Of the $5.5 billion in cash flow, $600 million was in taxes, $1.6 billion was paid to keep Wall Street happy—that was the dividends—which left them $1.7 billion to invest.

Excuse me. That $1.7 billion they reinvested in upgrading the equipment and optic fibers and everything else of that kind. It left them $1.6 billion in their back pocket so they could walk

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into any bank: I have $1.6 billion in my back pocket, and I would like to make a loan.

Well, heavens above, what financial power. And they wanted to know a little while ago why we had to have the public interest test included in this thing. With that $1.6 billion in their back pocket, they are already into New Zealand. They are putting in communication links between Moscow and Tokyo. That is these telecommunications companies. They are in Hungary.

I landed last year, I say to the Senator, in Buenos Aires, and the Ambassador came out and met me in the car. As we were driving into town—this is Ambassador Cheek, an Arkansas native—he turned to me, and he said: Well, our section is doing good.

I said, how is that?

He said Bell South here operates—I think they have about 14 to 16 million in Buenos Aires, and Bell South runs the local telephone, and they are getting a tremendous return on their investment. I know they are into Mexico and everything else.

I commend them. I do not know of a better operating company in my own sort of hometown, Bell South and Southern Bell. But they should not come here—and I do not think, frankly, these companies are coming.

I find it, I say to the Senator, as a result more or less of pollster politics. You go to run for Congress and the Senate, and the first thing you do is you get a poll and the poll gets you five to seven hot-button items. Crime, everybody is against crime. Taxes, everybody is against taxes. Jobs, everybody is for jobs. It is a jambalaya of the same nonsense, where you have the contract.

One thing, this communications bill, you know what, is not in the contract. And you know why? Because this communications bill is going to do something. You can take that 10-point contract, it is all process. It is all procedure. It is all pap. It is all line-item veto, term limits, paper shuffling or whatever—unfunded mandates, balanced budget constitutional amendment. It is all process, making sure you do not do anything but what the pollster tells you to hit and identify. Do not ever be for or against. Identify with the problems but do nothing about them.

Here we are trying to do something about them and you know what they come up with? They take the very responsibility they have fundamentally for education, for the schools, for the libraries, for the nonprofit health care, community health service, rural health centers and everything else and talk against them, using expressions like "micromanagement, meddling, bureaucracy" and everything else, like somehow something was wrong with that.

I thought that is what we were here for. If we are not here for the community health centers, who is? If we are not here for the schools, where are they going—all private schools with vouchers and people with money running around butting into each other? We are going the way of England. We are getting two levels of society now. Those with jobs are making 20 percent less today than what they were making 20 years ago.

And the census figures, I say to the Senator—I will yield right now—will show that in the age group 17 to 24, 73 percent of that age group cannot find a job or they cannot find a job outside of poverty. And here the people's representatives are coming here and talking against the people's institutions because the pollsters tell them to do that. It is a sort of an ideological bent: Get rid of the REA, a magnificent entity; get rid of public communications that is doing some good. And they tell you, yes, you know, public broadcasting—sure, it can make a profit. We can sell those VHF channels like gangbusters, and they can put on some more of the giggle shows or whatever you call them. You turn them on and there is some little wise kid about this high and the grownups tottering around, the wise kid makes the smart remark and everybody goes "hee-hee-hee" and that is all you get unless you have public television.

So I think that the distinguished Senator is getting right to one of the most valuable discourses I have seen because you have seen the rural Senators come with the metropolitan areas saying since we have the satellite and you can beam down into the rural area as well as down into the urbanized megacity you do not need these things—you do not need schools; you do not need hospitals; you do not need libraries anymore. And if you do, let the market forces operate them.

Mr. KERREY. I appreciate that. In fact, I am sure people will be interested—and I believe there is a lot of promise of jobs, by the way, in changing our regulation and going more to competition.

But do not count on the jobs coming from the companies that are typically coming up here on Capitol Hill urging us to do one thing or another. I have some interesting facts in that regard.

Regional Bell operating companies in 1984 in the United States of America employed 556,561 people. In 1993, that was down to 395,639. They dropped over 160,000 employees in that period—160,000 employees in approximately 10 years. The LEC's/Independents went from 180,000 down to 140,000. So now you are down 200,000 employees over that period of time.

The cellular industries everybody talks about really added a whole bunch of employees. They have added 40,000. So now you are back to a net loss of 160,000. So you hear from the RBOC's, LEC's and you hear from cellulars. They are talking about jobs saved. I am down 160,000 thus far. Are you going to keep going in that direction and give me more of the same?

The broadcast industry has gone from 170,000 down to 150,000, so another 20,000. Now I am up to 180,000 jobs. I bet you an awful lot of those people did not get jobs that paid the same as they previously had.

In cable television, you see increased employment in cable television, 67,000 or so up to about 109,000. So you are still about 150,000 jobs or so down.

We have the computer industry that we talk about an awful lot, a surprising number. I heard—I cannot remember who it was—a colleague come down and talked about we ought to do it like the computer industry has done. For your information, the computer industry in 1985 employed 542,000 Americans. Guess how many employees in 1993? 400,000 employees, down 150,000. When you are at home in your hometown meetings and they say to you, "Senator, what is this telecommunications deregulation bill going to do for me?" and you say, "Jobs," you better be prepared to say where those jobs are going to come from. You better be prepared to answer that person who says, "Thus far, technology has not been all that kind. I used to make $40,000 a year and now I am down to $15,000. How is that working for me?"

I hope that this particular attempt to strike this section will be rejected.

As I said earlier, the reasons I would cite are the following: One, it is about the only hope we have, I believe, of improving the quality of education both in the home and in the school. It is working. It is working out there.

Secondly, if you believe that the progress that is being made out there in the States right now is exciting, understand that the language in other sections of the bill takes away the incentives the RBOC's have had to do those things. It truly does. There is no disputing that. In every single State—every single State—where this kind of effort has been made, it has been made in exchange for regulatory relief, particularly going from rate-based rate of return to price caps. The premier example is in the State of Georgia, but it is not alone.

Finally, Mr. President, this well-meaning attempt to strike this section should be tabled because this is one of the few pieces of this legislation where, indeed, we are hearing from our citizens, where, indeed, we are hearing from mothers and dads and the PTA, the PTO that are coming to us and saying, "This one is going to work. We're trying to figure out how to make computers work in our school. We are up against the property tax lid, we are up against sales and income. We are trying to figure out how to do it, and this is going to give us a little help."

Do not believe it is a giveaway. These schools are going to make a maintenance effort on top of that. They have to. They have to spend a lot of money on software and hardware. This is just a little bit of help asked for by the companies that, indeed, can afford to do it given what this legislation allows

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them to do, given what this legislation provides for them.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, one note on commending our distinguished colleagues. The Senator from Maine, the Senator from West Virginia, and the Senator from Nebraska have joined together on this amendment and given leadership.

It should be noted that when we started, easily 4 years ago, the then distinguished Senator from Tennessee, AL GORE, was the one who paraphrased the "information superhighway." Part and parcel of his drive for the information superhighway was just this: education, hospitals, libraries, public entities and public interest groups that we had even expanded in the original treatment some 4 years ago in our Committee of Commerce. Vice President AL GORE has to be credited with this part of the information superhighway.

We had at our hearings this year the Secretary of Education, Secretary Riley, come forward and testify on this particular score outlining the various uses and needs of this particular consideration by the public to go ahead and take entities that are on a nonprofit basis—public schools are not for profit, not-for-profit hospitals, libraries and otherwise—and give them consideration, which is just like the universal service fund, to get the communications facilities out into the rural or sparsely settled areas.

So I commend Senator SNOWE, Senator ROCKEFELLER, and Senator KERREY, but I particularly wanted the record to show that the Vice President of the United States has been the leader on this information superhighway, and particularly the educational, health and library facilities to be afforded these particular services at a reduced rate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise in opposition to the McCain amendment. I want to commend the previous speakers who have emphasized very eloquently what this will do for the critical areas, especially of education. I am, as my colleagues know, the chairman of the Senate Subcommittee on Education. I have just completed a number of trips around this country visiting the schools in the urban areas of this Nation, from Baltimore to New York to Detroit to Washington, DC, as well as Los Angeles and San Diego. I have also examined the statistics of where our schools are at this particular point in our history when it is so essential and so important that we improve our educational system to be competitive in the world that awaits us out there and the markets that are necessary for this Nation to expand its economy.

The number one problem we see is the ability of our schools to be able to take advantage of the wonders that can come about through the information age. As I talk with them and travel with them, there is no question but that one of the most critical and important barriers they have to being able to participate in a meaningful way by the utilization of computer technology to provide the education through the software that would be made available and the opportunities that come through that is the inability to have affordable telephone communications. Without that, there is no hope that they will be able to make the kind of leap that we have asked them to make, for, as you know, we have passed Goals 2000, strongly indicating that we must by that time improve substantially the education of our young people.

I have been through my charts. I have gone through them many times, and I will many more times, to try to let everybody know the serious problems we are having.

First, I pointed out over and over again, when you compare our young people in the younger groups with competitor nations across this world, those nations which we would be competing with and gradually losing our competitive edge, we are last—last—in math and science among 14 of those nations.

Most probably, the most devastating statistic that we have facing us is the knowledge that 55 percent of our young people now that go through the school system come out functionally illiterate, because if you are not going to college, we do not worry about you. They are going to be the skilled work force of tomorrow in America. But if we do not furnish them the tools in schools and are not able to provide the kind of software that is out there and the ability to bring them up to speed on skills and on education, math, reading and all, we will not make it.

This is the best and biggest step forward we can make, by ensuring that there will be access to telephone lines.

Let me give you an example of how bad off it is. About 3 percent of our schools in this Nation right now have access to internet or outside communications for the utilization of the information age. When I go around to cities, I say, "I want to see your best and your worst." I have seen the best, and I have seen what they can do with the information age. I have seen so many young people sitting there with eyes lit up and looking at fantastic software and learning well above the capacity that we have ever had before.

Do you know how many of those schools there are in this Nation? Maybe 1 percent. Then I said, "I want to go to the worst that you have." I remember very vividly in the city of New York going down to a school on the lower east side. We went in there, and I think it was an old factory building. There were six floors that you have to walk up and down. I said, "Let me see what you have to offer your young people." She showed me four computers. I said, "How old are these?" She said, "I think they were from the 1970's." I asked, "What kind of software do you have?" She said, "Let me show you." It was something I had seen back in the mid-1970's. But she said, "I am excited. We just got a grant for $250 to upgrade our software."

Well, anybody that knows anything about computers and software knows what you are going to get for $250 is not going to do much for anybody. I saw similar things in Los Angeles and San Diego. I saw the best and the worst.

This one provision in the bill will do as much as we can do for education as anything else—the dimensions of what it will cost in these schools to be able to bring the communications in without this kind of help is devastating. For instance, there is $300 million in backlog of repairs and renovations needed in the city of Washington in order to upgrade structure to do the things that are needed to be done. It is $100 billion nationwide. But if you can afford to get the phone lines in and give them a reasonable rate, then we have an opportunity to take advantage of that tremendous software that is out there. I have seen systems which are imaginative and wonderful. But it will not work unless there is access to it. The only way we can start making that access—and we need to worry about the ability to have power to run these and other things that go along with it. But if do you not have the phone access, you will not get there.

So I urge very strongly, if you believe as I do that education is so critical and important to the future of this Nation, the one best thing you can do right now is to vote against the McCain amendment and make sure the provisions are in here to assist our country, to be able to elevate our educational system on a fast track instead of the slow, slow snailpace process we are undergoing now.

I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I rise in support of the McCain amendment. I guess when I first came to the Senate and I took a look at my State—long distances, sparsely populated—nobody has made more speeches on education, telemedicine, and all of those good things that can happen through wideband, broadband telecommunications.

Once we start down the road of preferential treatment, there is no end to it, and that technology will not be deployed at any price. That is the reason that we are doing this piece of legislation, to give some people incentive to deploy new technologies. If there is a way that we can serve education and telemedicine in rural areas, it will be done. It is being done in my State. For

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the first time, we have school boards that are setting aside money now for equipment and software and, yes, charges in order to accommodate it, to give some people incentive to deploy it.

What this does as a result is create a whole new class of preferential telecommunications service entitlements for a diversity of groups. I have no disagreement with my colleague with regard to the contribution which advanced telecommunications can make to society, especially in rural America. My home State of Montana is one of those rural areas in the country. I have worked very hard to make sure that we have this new technology. But we have to find ways to be entrepreneurial and allow some competition into it to make it work. You know what? It works in an area where telephone companies and those companies that work outside of the regulatory environment—country telephones, REA's, people who have an interest in community that makes it available to their schools because they know what the investment is in that school and what it is worth to that community.

They can do that because they do not have to go to a PUC and explain why they are doing it for a school or why they are doing it for a rural hospital. The RBOC's are inside that regulatory, and what we are trying to do is relieve ourselves of them so they can do some special things. This new technology is not going to go out there, and we are not going to tell Government to force it out there. It is not going to make it friendlier or cheaper for preferential users.

When the heavy hand of Government reaches out to mandate that business prevent preferential rates to certain groups, business is not going to be the one who pays. You know who will pay for it? Consumers pay for it. That is what we have lost here a little bit —that the paying public of every telephone will pay for this preferential treatment. You can almost call that double taxation, because they are also paying school taxes and also probably to some of the hospitals for some of the work they are doing there. We just tend to forget. Make no mistake about it, businesses will pass along such costs to consumers through higher rates—the same consumers that will be looking for lower costs and more services once this legislation passes.

So philosophically, section 310 takes a mandated approach that moves exactly in the opposite direction from the entire legislation, and it is an approach that is really tough to support. It defies logic on preferential treatment. You just cannot simply ignore the future impact this will have on the consumers in Montana, and they will come at a higher cost—a higher cost—if this legislation passes with this section intact.

Whenever there are a lot of people who want to get into that universal service and they want to use it for themselves, keeping in mind that the integrity of universal service is in question now because of preferential treatment, the Senator from Nebraska is 90 percent right. He understands what it did for Nebraska. I understand what it is doing in Montana. But it takes dollars in order to get that technology out there. If the Federal Government wants to step up to the plate and get some money out there, that is fine and dandy. I would support some of that for infrastructure inside the schools.

But we are going in exactly the wrong direction. It is a great thought. It has probably broad support because you always find more people who want something for nothing than you do people who want nothing for something. And that is just exactly the wrong direction. The marketplace is already moving in the right direction. It does not need this legislation in some areas to provide more service and more technology. But that progress could be stymied through mandates from this Government and—probably the Wall Street Journal was right this morning—placing more mandates. Every time we have a mandate, somebody pays. And it will be the consumers of this country who will pay for it, because this does not get out there for nothing.

I think it is a wrong approach. I say to my colleagues, if they are serious about building a national health and education infrastructure through telecommunications, this is the wrong direction to go, because with competition in the marketplace we will find somebody that will provide the services a little bit cheaper maybe than the next guy to do business in an area where there is a high volume of business as there is in education and health care provision in rural areas.

I ask my colleagues to support the McCain amendment.

I yield the floor.

Mr. KERREY. Before the Senator from Montana leaves, I appreciate the statement. I must say, Mr. President, I appreciate very much that Senator from Montana included a couple sections of language in this legislation on my behalf, section 304. It does deal with education. We added elementary and secondary schools for advanced telecommunications incentives. That is the connection. That is the fiber that would go to the school. It does not cover affordable rates and does not get some of the other things section 10 does, but last year when S. 1822 passed, the vote was 18-2. The Senator from Oregon, Senator PACKWOOD, and the Senator from Arizona, Senator MCCAIN, voted against it, but last year section 104 that the Senator from Montana supported did provide preferential rates.

Section 104 says the purpose of this provision—a new provision of the 1934 act to provide for public access actually much broader than what 310 does: disseminate noncommercial, educational, cultural, civic, and charitable, so the public has access to telecommunications network—the purpose of this provision is to ensure that these entities may be able to obtain, at preferential rates, advance services and functionalities for all their communication needs.

The chairman of the committee voted for it last year—last year's ranking member, this year's chairman. All members of the committee, not just Republicans, but all members of the committee, voted for that last year with the exception of the Senator from Arizona and the Senator from Oregon.

I know there is a good explanation as to what happened between last year and this, but last year, preferential rates were part of the bill, and this year they are some kind of a slippery slope.

Mr. BURNS. To reply to the Senator from Nebraska, had it been part of this bill out of committee—that is the only place I voted for, was out of committee. I would probably have voted for it again to get it out of the committee to get it to come to the floor of the U.S. Senate in order to move this legislation along.

Mr. KERREY. The Senator has included S. 1822, some special comments that indicate which provisions of S. 1822 he did not particularly like, and I have read that and I do not find any objection to providing the preferential rates to the various institutions.

My focus is the K-through-12 institutions.

Mr. BURNS. I say to the Senator that was a year ago, and I would have voted to get it out of committee.

Once we look at who will pay for it and who will pick it up, somewhere in this mix we have lost the consumer. That is where it is going to come. It will come in the form of higher rates for everybody.

I say if we do not do that, then the deployment of the technology will be slower to happen. That is where I am coming from.

Mr. KERREY. Those Members concerned about higher rates, I point out that the managers' amendment, that I am quite sure will be accepted, has some changes that allows for universal funding to be used to provide these preferential rates, which avoids the necessity for any kind of concern for rate increase.

Again, I close briefly, the Senator from Maine was kind earlier to vitiate a tabling motion. I am prepared to end this in this debate.

I say in summary, for me, we are making progress out there right now in States precisely because we have an opportunity to negotiate with telephone companies because they are trying to move from a rate-based system of regulation to a price cap system. This legislation takes away that leverage by saying that all States will move to price cap regulation. The progress we see being made out there will stop.

This piece of legislation with section 310 intact, this particular section intact, will give every single Member

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who votes to retain this section in there, I guarantee, an awful lot of pride. I promise, from personal experience and visiting schools that are using computer technology, those schools that use this provision—and they will, there will be very few schools that do not find themselves saying this is a way to leverage the purchase of computers, the purchase of software, to begin to use the technology for math scores, reading scores, and writing scores—all the things that have been frustrating, as citizens, will allow Members to get quite excited.

I hope that Members will not support this well-intentioned motion to strike the section and allow section 310 to remain in S. 652. I yield the floor.

Ms. SNOWE. Mr. President, just a few final points that I think are important to make in response to one of the previous speakers, Senator BURNS.

First of all, the language that has been incorporated in the legislation before the Senate that was offered by Senator ROCKEFELLER, Senator KERREY, Senator EXON, and myself in committee extended the already existing universal service provisions within the legislation. Universal service has been a fundamental part of our telecommunication policy, and rightly continues to be part of our telecommunication policy before this Senate.

We extended the provisions to include schools, libraries, and hospitals because we think it is in the public interest. It is in our national interest.

Furthermore, I think it is important to note that this ultimately will save money. When we talk about the deregulation of the telecommunication industry, which is what this legislation is all about, many providers will reap enormous benefits as a result of the goal of this legislation. We want to make sure that the rural areas also reap benefits, that they are not removed from affordable access to the technological growth and development of the information superhighway. It will save money through telemedicine. Making sure schools have access will ultimately increase the economic growth of this country. This language is a wise investment that will ultimately save money.

In talking to rural health care centers and hospitals, they point out that through telemedicine they could communicate with some of the specialists, without transporting the patient or going to another hospital in order to get those services. They can do it through telemedicine.

Access may be there to some citizens, in a limited fashion in some rural health care centers, as Senator BURNS mentions. It is not pervasive, and certainly not in my State.

Without this language in the bill, then rural areas will not reap the full benefits of the information age because it will be more economically feasible for carriers to provide those services in densely populated areas, in urban areas—not in the rural areas of our country.

We have to ensure that there is a minimal threshold of affordable access to telecommunications services to our schools and our libraries and rural hospitals. We cannot make it more basic than that.

Finally, I would like to note that three of the Bell telephone companies support our provisions. We refined our language to conform to some of their concerns. NYNEX, Ameritech, and Bell Atlantic do not oppose these provisions.

I hope Members of this body will defeat the McCain amendment, which would strike the language that we have incorporated in the legislation before the Senate. I move to table the McCain amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from New York [Mr. D'AMATO], the Senator from North Carolina [Mr. HELMS], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Alabama [Mr. SHELBY], and the Senator from Alaska [Mr. STEVENS] are necessarily absent.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is necessarily absent.

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

The result was announced—yeas 58, nays 36, as follows:

[Rollcall Vote No. 244 Leg.]

YEAS—58

Akaka	Exon	Lieberman
Bancus	Feingold	Mikulski
Bingaman	Feinstein	Moseley-Braun
Bond	Ford	Moynihan
Boxer	Glenn	Murray
Bradley	Graham	Nunn
Breaux	Harkin	Pell
Bryan	Hatfield	Pryor
Bumpers	Hollings	Reid
Byrd	Inouye	Robb
Campbell	Jeffords	Rockefeller
Chafee	Johnston	Sarbanes
Cochran	Kassebaum	Simon
Cohen	Kennedy	Simpson
Conrad	Kerrey	Snowe
Daschle	Kerry	Specter
DeWine	Kohl	Thomas
Dodd	Lautenberg	Wellstone
Domenici	Leahy	
Dorgan	Levin	

NAYS—36

Abraham	Gramm	Mack
Ashcroft	Grams	McCain
Bennett	Grassley	McConnell
Brown	Gregg	Nickles
Burns	Hatch	Packwood
Coats	Heflin	Pressler
Coverdell	Hutchison	Roth
Craig	Inhofe	Santorum
Dole	Kempthorne	Smith
Faircloth	Kyl	Thompson
Frist	Lott	Thurmond
Gorton	Lugar	Warner

NOT VOTING—6

Biden	Helms	Shelby
D'Amato	Murkowski	Stevens

So the motion to lay on the table the amendment (No. 1262) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. JEFFORDS. Mr. President, I note that a quorum is not present.

The PRESIDING OFFICER. The Senator suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. PRESSLER. Mr. President, I hope Senators will bring up their amendments. We are ready for amendments. As far as I am concerned, I would like to go deep into the night, but maybe others disagree.

I have been trying all afternoon to get the voting speeded up. We are ready for the next amendment, as far as I am concerned. I do not know if anybody has an amendment ready. And I have been seeking time agreements. But we can really move much faster. We could theoretically finish this bill tonight if we really get going. So I would appreciate Members' support in moving this forward. We are ready for amendments. Senator HOLLINGS and I ready for any amendments.

Mr. DOLE. Mr. President, I have talked with both managers of the bill to see what we could do to accommodate our colleagues who have commitments for the next couple of hours. But then you have colleagues who have commitments tomorrow morning. I am not certain we can accommodate everybody. But the key is to get an amendment laid down that will take a couple of hours.

I think the Senator from South Carolina may be prepared to offer his amendment.

Mr. THURMOND. Not yet.

Mr. DOLE. He is in doubt.

There is the managers' amendment that still has not been adopted, and the amendment by this Senator, and then the amendment by Senator DASCHLE.

Mr. HOLLINGS. We are trying to work those out. We will work those out if we can get another amendment up and relieve our colleagues here.

Mr. DOLE. I have given a copy of my amendment to Senator KERREY because I know his concern with the bill. If we need to furnish any additional information, we will be happy to do so. But we do need to get an amendment here.

Do we have a list of amendments?

Mr. PRESSLER. If the leader will yield, we invite any amendments. But we are prepared to go to third reading very soon if Members do not bring up their amendments.

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Mr. DOLE. As I understand, the Senator from Maine, Mr. COHEN, is prepared to offer an amendment which will take approximately 1¼ hours. I am not sure how much the people in opposition might want.

Mr. PRESSLER. As I understand, Senator THURMOND will have an amendment and Senator DORGAN. Those are the only outstanding amendments that I know of.

Will someone correct me if that is not true?

We have the Cohen amendment and we have the Thurmond amendment and the Dorgan amendment coming up. That is all that I know of.

Mr. DOLE. The Senator from Maine is prepared to enter into a time agreement of 1 hour and 30 minutes equally divided, if that is all right with the Senator from South Carolina.

Mr. HOLLINGS. Yes.

Mr. DOLE. May we make that request?

The PRESIDING OFFICER. Is there objection?

Mr. KERREY. Reserving the right to object, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KERREY. Mr. President, I have no objection to the unanimous consent to set a time for this debate.

The PRESIDING OFFICER. Is there further objection?

Without objection, it is so ordered.

Mr. COHEN. Mr. President, reserving the right to object——

Mr. DOLE. No second-degree amendments in order.

The PRESIDING OFFICER. The Senator from Maine.

Mr. KERREY. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, as I understand it, we have agreed to an hour and a half equally divided, expecting a vote no later than—I would say what—a quarter of 8?

Mr. PRESSLER. That is correct.

Mr. COHEN. If it can occur sooner, can Senators be on notice that if time is yielded back we will vote prior to that time?

Mr. PRESSLER. For the convenience of Members, perhaps we can agree it will be an hour and a half. It does not make any difference to me. I am for voting as soon as possible.

Mr. COHEN. A 7:30 vote.

Mr. PRESSLER. And we will divide the time equally.

Mr. COHEN. I ask unanimous consent that there be no second-degree amendments.

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

AMENDMENT NO. 1263

(Purpose: To provide for the competitive availability of addressable converter boxes)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. COHEN], for himself and Ms. SNOWE, proposes an amendment numbered 1263.

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

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

The amendment is as follows:

On page 8, between lines 12 and 13, insert the following:

(15) When devices for achieving access to telecommunications systems have been available directly to consumers on a competitive basis, consumers have enjoyed expanded choice, lower prices, and increased innovation.

(16) When recognizing the legitimate interest of multichannel video programming distributors to ensure the delivery of services to authorized recipients only, addressable converter boxes should be available to consumers on a competitive basis. The private sector has the expertise to develop and adopt standards that will ensure competition of these devices. When the private sector fails to develop and adopt such standards, the Federal government may play a role by taking transitional actions to ensure competition.

On page 82, between lines 4 and 5, insert the following:

SEC. 208. COMPETITIVE AVAILABILITY OF CONVERTER BOXES.

Part III of title VI (47 U.S.C. 521 et seq.) is amended by inserting after section 624A the following:

"SEC. 624B. COMPETITIVE AVAILABILITY OF CONVERTER BOXES.

"(a) AVAILABILITY.—The Commission shall, after notice and opportunity for public comment, adopt regulations to ensure the competitive availability of addressable converter boxes to subscribers of services of multichannel video programming distributors from manufacturers, retailers, and other vendors that are not telecommunications carriers and not affiliated with providers of telecommunications service. Such regulations shall take into account—

"(1) the needs of owners and distributors of video programming and information services to ensure system and signal security and prevent theft of the programming or services; and

"(2) the need to ensure the further deployment of new technology relating to converter boxes.

"(b) TERMINATION OF REGULATIONS.—The regulations adopted pursuant to this section shall provide for the termination of such regulations when the Commission determines that there exists a competitive market for multichannel video programming services and addressable converter boxes among manufacturers, retailers, and other vendors that are not telecommunications carriers and not affiliated with providers of telecommunications service.".

Mr. COHEN. Mr. President, I rise this evening, along with Senator SNOWE, to offer an amendment that is a pro-consumer amendment. It is a pro-competition amendment that is focused on one narrow area of telecommunications that I truly believe needs more competition.

Basically, what we have is a situation in which cable companies will offer their cable service and offer the so-called set-top boxes, a cable box essentially, that you need to rent in order to carry the cable signal.

Obviously, cable companies are in the business to sell their signals and their programming, and they want to protect the integrity of that signal and that programming. I think that is not an unreasonable request. It is one that we ought to protect.

The difficulty, however, is that there is little, if any, competition in the set-top box market. As a matter of fact, what you have is an essential monopoly that has been granted to the cable companies.

We had a situation in Maine a short time ago where one company increased the monthly charge by almost $3, just for the privilege of renting a box in order to carry signals that subscribers were already carrying. A furor erupted over that.

There is no real way to deal with this situation other than introducing competition. What I am seeking to do by this amendment is to allow the FCC the authority to call upon the private sector to develop a standard that would say, "Here is the technology whereby we can protect our signals but also allow for competition in the manufacture and distribution of these set-top boxes."

If we go back historically, we look at what happened to telephone companies. Decades ago, telephone companies would say, "You have to rent our telephone. If you don't rent our telephone, you don't get any telephone service."

Of course, times have changed. We now can walk into Circuit City, Radio Shack, Best Buy, or any of the supermalls, and we can find 20 or 30 different types of telephones. The signal has been protected. We can plug the telephone into the wall. We still have to pay the Bell companies, AT&T, MCI or whoever is carrying the signal. But the signal is protected.

As a result of competition, we have a wide variety of choices in other markets—VCR's, television sets, computers, video game players, and stereo systems. In these markets, we have competition. What this amendment seeks to do is introduce competition into the set-top box market.

Mr. President, I really believe that those who are opposed to this amendment—I have seen a letter circulated—argue that somehow this amendment represents more regulation. Those who argue against this amendment are for monopoly, not for more competition.

What we seek to do is to allow the FCC to call upon the private sector to develop the standards, and those would come—they should come—in a reasonably short period of time. We can do it today with analog technology. I am told that digital technology is moving along very rapidly. For example, one

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could take a credit card, or something that looks like a credit card, and the cable company that is sending the signal would have their code on that card. You could not receive the programming without inserting that card into the set-top box.

That is something that is not too far away on the horizon. It may not even be necessary to have a set-top box the way technology is running today. But even if we are dealing with analog technology, competition can exist in the manufacture and distribution of the boxes, just as we have competition in the manufacture and distribution of telephones today.

So for those reasons, I am submitting the legislation. I am hoping that the Members of the Senate will agree that if we are trying to stimulate more competition, give consumers more choices at lower prices—which, after all, is the goal of this legislation—then it should be accepted.

I understand there are several States where these set-top boxes are manufactured, and the manufacturers like being able to go to the cable companies and say, "Here, buy our box." If I were they, I would enjoy that as well.

But if we are really talking about competition and giving consumers greater choices and lower prices, there is absolutely no reason why this amendment should not be accepted by the overwhelming majority of those people who are supporting deregulation, who are supporting this telecommunications revolution, and who want to see more competition.

With that in mind, Mr. President, there may be others on our side. I know Senator Snowe is here, and she is a chief cosponsor of the legislation. It is something that is long overdue. The problem we have today is there is no free market. If we were back 30 years ago in the telephone industry, we would still have the old black phone and still be paying rent to AT&T. If we had this information superhighway, we would say basically you cannot own a car, you have to rent one of our cars.

What this amendment says is we are going to give the consumer the opportunity to buy set-top boxes from any source they choose and, at the same time, allow for the protection of the signal by the cable company that is sending it forth. I believe this represents a reasonable approach.

By the way, there were questions raised about my earlier legislation (S. 664) on this issue. Was I really trying to bring in the computer industry? The answer is no. Was I trying to bring in the cellular phone industry? Again, the answer is no. To address the concerns of these industries, our current amendment focuses on the lack of a competitive market for cable boxes. We have excluded cellular telephone communications. We have excluded anything relating to computers. The legislation is designed solely for set-top boxes. We have no desire or intent to regulate cellular phone or other telecommunications markets.

I urge those who are now advocating competition in order to give consumers lower prices and more choice to support the amendment.

I reserve the remainder of my time.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I rise in strong support of the amendment offered by my distinguished colleague from Maine, Senator COHEN, and I join in cosponsorship of this legislation to ensure that set-top boxes are competitively available. I commend him for offering this legislation because I think in the context of the legislation before us today, this becomes a very important issue.

Currently, as Senator COHEN has noted, consumers have absolutely no choice with respect to set-top boxes. They are forced to rent them from cable companies, often as a requirement to receiving cable signals.

This issue was highlighted recently when a cable operator in Maine planned to scramble signals and require their customers to rent set-top boxes at a predetermined price.

This obviously did not go over very well because it did not offer a choice to the consumers. Rather, they were required to rent set-top boxes for an additional fee added to their cable costs in order to unscramble the cable signal.

Fortunately, the issue was resolved, but I think it underscores an important point, the need to ensure that consumers seeking to access cable services have options. This amendment would allow consumers to purchase the set-top box from a local retail store, or to lease or purchase a box from their cable provider. They would be able to choose boxes that will work with their own television set and continue receiving the cable programming channels to which they have subscribed.

When set-top boxes are available in a competitive market, consumers will benefit from lower prices, increased flexibility, and a higher quality product. Competition will ensure technological innovation in set-top boxes, as companies compete to provide a better product at lower prices.

I recognize that as companies try to provide consumers with new and changing technological features, there are bound to be growing pains. In the case of the State of Maine cable provider, the requirement to rent set-top boxes was intended to provide consumers with added flexibility through addressable programming—but instead it limited consumer choices because it required them to rent the set-top boxes and bear the additional cost, even if they wanted to receive the same services. I do not think that is a mandate, nor is it a price, that consumers should be forced to bear. I think certainly we should encourage competition, and I think this amendment does this.

This amendment requires the FCC to assure that set-top boxes used by consumers to access cable programming are available in a competitive market. This amendment also continues to recognize the legitimate interest of cable operators in ensuring the delivery of cable services only to those consumers which have paid for them.

Present technology, however, can ensure the integrity and safety of cable operators' signals without requiring delivery of set-top boxes only through the cable company.

In fact, the Electronic Industries Association has developed a draft standard for security cards, similar to credit cards, that could be inserted into set-top boxes by cable companies to protect their system, while allowing consumers to use a commercially-sold set-top box.

I think it is important to mention this issue because I know that cable companies were concerned about providing safeguards for their own signals. And this legislation provides for that, takes that into account. Under the amendment the FCC has the responsibility and obligation to consider the legitimate needs of owners and distributors of cable programming to ensure system and signal security, and to prevent theft of programming or services.

It is interesting to look back on telephones prior to the deregulatory environment, specifically, think back to 1978—to give an example of how much costs have dramatically changed in telephone services, back in 1978, it cost $8.10 a month to rent a touch-tone telephone from AT&T—a noncompetitive rental that would cost about $18.60 in 1994 dollars, plus the touch-tone and extension fees. As you know, the AT&T monopoly was broken up back in 1984. With that decision, the non-competitive telephone rental market was concluded.

In today's competitive market, a similar phone can be purchased for less than twenty dollars—about the same cost as a monthly rental from AT&T would have cost in today's dollars. In 1983, it cost $3.03 to rent a standard black telephone—$4.63 in 1994 dollars. Later that same year, when AT&T customers were allowed to buy the phones already in their homes, the very same phone could be purchased for $19.95.

We have learned that competition did not threaten the security of the phone networks, and consumers benefited from technological innovations, lower prices, and expanded choice. So I think that a "yes" vote on Senator COHEN's amendment will bring competition to the market for set-top boxes, I think, benefiting consumers all across America. I think the case has been made absolutely clear. I urge a "yes" vote for consumer choice and improved competition.

I yield the floor, Mr. President.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

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Mr. PRESSLER. Mr. President, I must rise in opposition to this amendment. But I do want to praise Senator COHEN, Senator SNOWE, and others who have worked on this, and who have done a good job of trying to find a solution.

I know that the intention of the amendment is to permit unbundling of cable boxes so that vendors other than cable companies can offer them.

While it is a good concept, the amendment is faulty.

Consumers should be able to obtain their set top boxes from vendors other than their cable provider. However, urging the FCC to step in to find a solution may not be the right way to proceed.

This amendment is drafted in such a way that I cannot imagine the FCC reacting in any other way but to try to issue standards governing set top boxes.

Standards should be set by industry. And, I understand that there has been difficulty in getting cooperation from industry in establishing standards. A uniform standard would make it easy for vendors and manufacturers who wish to get into the business. However, there is no uniform standard among the nation's cable operators.

Cable is going to have to change. Competition will force change. DBS has licensed several satellite dish providers, and the cost of DBS will continue to decline. The percentage of DBS will increase, and cable will have to compete to keep its customers.

There simply is no need for Congress to mandate further FCC studies or regulations on the subject of set-top boxes. The proposed amendment on set-top boxes is not sound for a number of reasons, including: The retail sale of cable descramblers could increase cable theft; increased cable theft will raise costs for cable systems and customers; widespread cable theft will surely discourage increased investment in cable programming and cable distribution facilities.

The proposed amendment is premised on the following four myths:

Myth 1: Cable boxes are no longer necessary to secure video programming.

Myth 2: The use of new digital technologies with replaceable "smart cards" will solve cable's security concerns.

Myth 3: Cable boxes are like telephones.

Myth 4: Retail availability of cable boxes will reduce prices to consumers.

Decoder boxes in homes are the only viable form of security for video service. While there are other ways to secure a program service, all of the known techniques have problems that make them useful only in limited circumstances. For example, negative traps cannot be used with multiple pay services without interfering with the signal quality of other programs delivered. Interdiction technology is costly and not totally reliable.

Since cable theft raises the cost of doing business for cable systems and, ultimately, cable consumers, product security is essential to the economic well-being of cable operators, cable consumers, and program networks. In addition, product security is vital for continued investment in cable programming and cable distribution systems.

Theft of cable service is a multi-billion dollar problem today. The retail sale of cable descramblers and would increase cable signal theft significantly. A person with a desire to modify cable boxes would be able to purchase any number of them at retail, modify them to illegally receive encrypted services, and then resell them to others at whatever cost the market would bear.

Signals protected by digital techniques are not immune to attack. The security of other television services that have depended on digital techniques and smart cards have been quickly compromised. Indeed, such security systems used by program providers in Europe were broken within months of their deployment.

Proponents of set-top box legislation argue that even if system security is breached, the smart card can be changed. The problem for both consumers and cable operators is the expense of such a scheme: Smart cards cost $30-$40 apiece. Sending out new cards to all customers every time signal security is breached would become a prohibitive recurring cost.

Telephone architecture and cable architecture are radically different. The telephone instrument itself does not grant consumers access to the services being sold by the telephone company. The telephone set is merely the instrument that consumers need to use the network. Access to telephone services is provided by a line that connects consumers to the telephone company's central office. In order to prevent consumers from using a service, such as dial tone, the telephone industry physically disconnects the consumer's wire at the central office. Consumers cannot steal the service.

Cable companies, however, must protect their services at the consumer's home, since the signals of all program services are present at all times in the cable system's distribution system.

Cable operators scramble or encrypt program signals to prevent their unauthorized reception. Access to the encrypted product which is present in every home is given only to consumers who have purchased it by providing a set-top box containing the appropriate descrambling circuitry.

Even telephone companies entering the video-delivery business have recognized that the most efficient way to deliver a video to consumers is to replicate cable television architecture, and they are deploying that approach in their new distribution networks.

Current law requires cable operators to provide decoders and descramblers to consumers at cost. S. 652 does not change existing law. The retail cost of a descrambler is 10 times higher than the annual rental fee consumers now pay.

Cable companies deploy new set-top technology every 5 to 7 years. This obsolescence cost is far less for a consumer paying an annual rental fee based on actual cost than for consumers at retail.

Cable companies utilize different scrambling technologies from market to market, requiring cable boxes to be franchise specific. Consumers moving from one franchise area to another pay far less by renting their set-top equipment than by purchasing new boxes at retail.

For all the reasons I have mentioned, we do not need to place yet another requirement on this industry, particularly one which harms both paying customers and cable operators.

Therefore, I oppose the amendment.

Mr. COHEN. Mr. President, let me take this opportunity to add a few comments.

First, let me add my distinguished colleague, Senator THURMOND, as a cosponsor to the amendment.

Let me try to respond briefly to the comments that have been made. It seems to me these are the very same arguments that AT&T made 30 years ago: "If you do not allow us to control the phone, we will lose our signal. We will have people who will be getting access to our telephone service without paying for it."

The objective of this amendment is to make sure the FCC calls upon the private sector to develop the standard that will protect the cable signal. I do not want to see the cable companies lose the benefit of programming and the costs of doing business by having people engage in thievery. What we want to do is make sure that they are, in fact, protected. That is precisely the wording and the intent of the language of the amendment.

The Senator from South Dakota said competition will force change. But that is the problem. There is no competition in the set-top box market; there is a monopoly. We want to have competition. We want to force change. We want to have 10 different types of boxes or whatever other devices might be developed in the future, and not grant a monopoly to any one of the cable companies.

Yes, competition does force change. We have seen it in virtually every aspect of our lives, from the telephones, the VCR, to the computers, to everything. We go to Circuit City, Radio Shack, any of these major malls, and we see an absolute abundance of electronic devices by virtue of having a free market.

There is no free market today with set-top boxes. Take, for example, one cable company in Arlington, VA. Here is what they say in their "Policies and Procedures":

Please remember . . . that channel selector boxes with descrambling capability can only

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be obtained from Cable TV Arlington. In fact, should you see advertisements for cable equipment that have descramblers in them (so-called "pirate boxes" or "black boxes") you should understand these devices are illegal to sell or to use, unless authorized by CTA [Cable TV Arlington]. Because of the need to protect our scrambled services, Cable TV Arlington will not authorize the use of any descrambler not provided by CTA. CTA does not recommend purchasing channel selector boxes from other sources.

Companies say "Rent our boxes." People cannot buy them.

If you have more competition, you obviously will have greater consumer choice. You will have more manufacturers. You will have diversity. You will have quality, as well.

Our amendment has a security provision, and for those who are concerned about whether the FCC is now going to interject itself and take over, we have also added a sunset provision. I do not want to see the FCC have long-range regulatory authority. But we are talking about breaking up the monopoly by saying the FCC shall go to the private sector, give them enough time to develop a standard, and if they do not develop a standard, propose a temporary standard. And it is temporary under this legislation as drafted.

Who supports this, Mr. President? Well, I have a letter here from the Information Technology Industry Council [ITI]. I will have it printed for the RECORD.

We also have the support of the Cellular Telecommunications Industry Association [CTIA]. They were originally concerned with the bundling provision in my earlier legislation. Because of this concern, I deleted the bundling provision in the amendment. So they are now in support and do not oppose the amendment.

Who is opposed to it? Obviously, the cable companies are opposed to it. They are the ones who are saying no; we like having this monopoly. We want to control the boxes. We want to rent them. We do not have to worry about competition. We do not have to worry about it at all.

The companies, obviously, who manufacture the boxes like going to a couple of cable companies and saying, "Here is our product." They do not want to be forced to engage in competition for the manufacture of these devices, be they boxes or some other type of device that the future will show us.

I think we have also addressed the issue of security. We have addressed the issue of limited FCC regulatory power by saying it is only temporary. The core of this amendment is more competition, lower prices, better quality, and more choice.

Mr. President, I make these comments on behalf of many of my colleagues who have served on the Judiciary Committee, as well. Perhaps they will be coming to the floor before debate is concluded.

The notion that somehow we have to be concerned that if we allow any competition, this will actually increase the theft of cable signals, I think is precisely the same argument that was made by the telephone industry 30 years ago.

I think we have come a long way since then by virtue of competition. The consumer certainly has benefited. I think that this is precisely what needs to be done with this area of telecommunications that is now controlled by monopolies.

I reserve the balance of my time.

Mr. President, I ask unanimous consent to have printed in the RECORD the material previously mentioned.

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

INFORMATION TECHNOLOGY
INDUSTRY COUNCIL,
June 8, 1995.

Hon. WILLIAM S. COHEN,
U.S. Senate,
Washington, DC 20510.

DEAR BILL: ITI, the Information Technology Industry Council, supports your amendment to S. 652 that would enhance the competitive availability of equipment used to access multichannel video programming services. Competitive markets for these devices, like the one in which the computer industry has thrived, will benefit consumers and industry alike.

ITI represents the leading U.S. providers of information technology products and services. Our members had worldwide revenue of $227 billion in 1994 and employ more than one million people in the United States. It is our member companies that are providing much of the hardware, software, and services that are making the "information superhighway" a reality.

We have been working with Kelly Metcalf of your staff over the last several weeks and believe that, as modified, the proposed amendment will improve consumer choice and stimulate competition and innovation in the market for the converter boxes and other devices that consumers will use to access video and other services provided by video programmers. This will ensure that consumers of multichannel video services—whether provided by cable systems, direct broadcast satellite, video dialtone networks, or other means—will be able to purchase equipment necessary to receive programming and services separately from the video services. This will allow independent manufacturers and retailers, who have no relationship to the service provider, to offer such equipment directly to consumers.

We appreciate your leadership and your willingness to work with us to address our concerns on earlier versions of the amendment.

Sincerely,

RHETT DAWSON,
President.

CELLULAR TELECOMMUNICATIONS
INDUSTRY ASSOCIATION,
Washington, DC, June 8, 1995.

Hon. WILLIAM S. COHEN,
U.S. Senator,
Washington, DC.

DEAR SENATOR COHEN: The wireless industry, through CTIA, has worked closely with you and your very capable professional staff regarding concerns of the commercial mobile service industry about restrictions and regulations being considered which would affect the industry's competitive and highly diverse marketing and distribution channels for mobile telecommunications equipment and services.

We are pleased that the amendment which you have offered does not affect the commercial mobile radio services equipment market, nor impose additional regulatory restrictions which would slow or deter the current ability of existing and new CMRS competitors, as well as retailers and manufacturers, to aggressively market mobile equipment and services to consumers from numerous outlets, including national, regional and local retailers, specialty stores and dealer stores.

The wireless industry appreciates the concerns that you have expressed about some aspects of the telecommunications equipment marketplace and we thank you for narrowing the scope of your amendment to address those legitimate concerns.

Very truly yours,

THOMAS E. WHEELER,
President/CEO.

Mr. KERREY. Mr. President, I would like 10 minutes to speak in favor of the Cohen amendment.

Mr. COHEN. I yield 10 minutes to the Senator from Nebraska.

Mr. KERREY. Mr. President, I have viewed the amendment and the company documents and listened to the Senator from Maine. I must say, he is entirely consistent with what this legislation, at its best, proves in a couple of ways. We will have the opportunity to discuss and debate this later.

It says that if consumers have a competitive choice—and by that, I mean that if I do not like what I got, I go someplace else.

The distinguished occupant of the chair has been in business and understands what choice is. If you have a product that your customer wants to buy, your customer buys it. If you do not, if the price or quality is wrong, he goes somewhere else. And in that kind of environment it tends to focus the mind. It tends to say to you, "I better figure it out and give that customer the right price."

The customer says to me, "I do not like black, I like blue, and if you do not give me blue, I will go down the road here where they are manufacturing it in blue." That is the kind of competitive choice that produces the kind of quality and the kind of choices that in fact we have seen in other sectors of our economy and that we are trying to do with this particular piece of legislation.

I understand the opposition to it. I understand certain sectors of the industry are worried about what is going to happen in a competitive environment. But let us not say to our citizens, as we are going through this debate as we are, that we are going to try to use competition to give you something that you currently do not have right now and then kind of pull back, which is what we would do if we do not accept this amendment, in my judgment.

I understand there are some concerns about what sort of impact this might have upon rural cable or smaller cable operators. I am prepared to surface that kind of concern. We just did that, in fact, with the Snowe-Rockefeller amendment in education.

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If you have a particular problem where somebody is not able to survive, if you can make a good case where there ought to be some direct subsidy to enable them to survive, let us do it. But let us not take the entire sector, this piece of the electronics market, and shut down development of it, which in my judgment we are about to do unless we allow competitive choice to occur as we again are trying to produce a piece of legislation that pretends to be in favor of competition as a way to make the U.S. economy and this sector of our economy not only more productive but satisfy the needs of the consumers at the other end.

As I said in some earlier comments—and I will try not to run beyond my 10 minutes; you can hammer me down when I have gotten to the end point—on previous occasions, this piece of legislation we are considering, S. 652, is not a small bill. It is a big bill. It is going to have a major impact on every household in America.

From my experience with the divestiture in 1984, I remember for the first 2 or 3 years people were not happy. They were upset. They did not like all the choice. They were confused about it. We have to make sure, if there is a philosophy here that we believe will produce lower prices and higher quality, we have to be sure we will stick with it. But if we do not stick with it, what is going to happen is you are going to continue to have artificial separations that make it difficult for those entrepreneurs to come to our households and say, "I am prepared to sell you a packaged service. Here is my price and what I will give you. And if you do not like it, there are lots of other people who will come here and try to nail down your business."

That is the environment we are trying to create, and if we do not create it, consumers will say to us, our citizens will say to us as consumers, that we have gotten a good deal out of this thing. It has been good for us.

If we preserve any sort of monopoly out of concern, "I am not sure what is going to happen here, maybe I better hedge my bet a little bit," it seems to me we are going to find ourselves wondering why we supported this legislation.

I make it clear, even with this amendment adopted, I need to have some additional changes in this before this bill is going to get my support. But this particular amendment is entirely consistent with what I think this legislation needs to do before we enact it.

Mr. LEAHY. Mr. President, I join as a cosponsor of this amendment and commend my colleagues for their leadership. Just last year, Senator THURMOND and I proposed an amendment along the same lines to promote consumer availability of converter boxes. We were delighted when our colleagues from Maine took up the fight and previously noted our support when they appeared before the Antitrust Subcommittee earlier this year.

This amendment seeks to encourage consumer options and competition. It uses regulatory authority only as a last resort when competition is not working, when consumer choice is not available, and where the private sector and the marketplace fail to develop standards that ensure competition. It is, of course, our hope that this regulatory authority never need be exercised.

Mr. HELMS. Mr. President, the pending amendment requires the Federal Government to jump in and set standards for technology and this will have a chilling effect on new technologies. Not only that it will compromise the security devices used in cable TV that enable parents to protect their children from indecent and violent programming on television. Allowing the FCC to set standards for technologies will have an adverse impact on new technologies being developed.

Mr. President, in order to protect their services, cable television operators have used increasingly sophisticated and cost-effective methods to secure that signals against theft. Current technology does this by including the security devices in a converter placed on or near the television set.

Security for these programs is essential for parents who wish to protect their children from the deluge of violent and explicitly sexual material so regrettably abundant on many cable channels. If the FCC, for whatever reason, sets a weak or easily compromised standard, it will be much easier for our children to gain access to trashy and violent programming.

Let me state for the record a few examples of the type programs to which children may gain access: HBO's program (called "Real Sex") in which a former porn state describes sexual acts and how men can dress like women: and the Playboy Channel, the X-rated movies on pay-per-view channels, and the violent R-rated movies.

Concerns over the lack of security are very real: the cable television industry is already experiencing a significant level of theft of service-approaching 15 percent in the largest systems. This cost cable operators and owners of intellectual property an estimated $4.7 billion per year. Satellite television was victim to theft of service rates in the late 1980's which approached 65 percent of the market.

This amendment would turn over to Federal bureaucrats the responsibility for making the determination as to how much security is adequate. That determination will be binding on owners of intellectual property and network providers. This obviously is unacceptable.

The Federal Government should not be charged with setting the standards for technology. Standard setting for technology belongs in the hands of those in the private sector who have the expertise and the incentive to protect intellectual property.

A national and uniform security standard actually facilities theft by giving criminals a single target; it also stifles the necessary innovation for security to stay ahead of high-technology hackers.

Mr. President, I am unalterably persuaded that property owners, and those acting for them, should have the right and responsibility to determine the level and method of security appropriate for their needs. That is clearly an economic business decision—not a matter for bureaucrats determination.

We must let new technologies develop to preserve security, experience the development of increased retail availability of equipment and avoid the consequences of the law of unintended results that usually accompanies regulation.

The Cohen amendment should be rejected.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I wonder if the Senator from Maine would allow us, within the unanimous consent agreement, to go to the managers' amendment that we have worked out and we wish to have agreed to. We are not going to change anything here. This will take about 5 minutes at the most.

Mr. COHEN. I have no objection.

Mr. PRESSLER. For the information of everybody, we will stick with the 7:30 vote. There is no change. There are more amendments to this and other speakers are welcome to come to the floor.

Mr. FORD. Mr. President, could the Senator refrain for just a moment?

It is all right, Mr. President.

Mr. COHEN. I assume it will take about 5 minutes after the time?

Mr. PRESSLER. Yes. It will take no more than 5 minutes.

Mr. HOLLINGS. Mr. President, this is a managers' amendment. We worked it out on both sides and we think this is a good use of time. We have been looking for the opportunity. We cleared it with those Senators. I yield.

Mr. PRESSLER. Mr. President, I ask unanimous consent to set aside the Cohen amendment for no more than 5 minutes.

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

MODIFICATION TO AMENDMENT NO. 1258

Mr. PRESSLER. Mr. President, I call for the regular order with respect to amendment No. 1258. This is a modification of the managers' amendment.

I send to the desk a modification of our amendment, the amendment of Senator HOLLINGS and I, and ask the amendment be modified accordingly.

The PRESIDING OFFICER. The amendment is so modified.

The modification is as follows:

On page 7 of the amendment, beginning with line 22, strike through line 4 on page 8 of the amendment and insert the following:

"(1) REGISTERED PUBLIC UTILITY HOLDING COMPANY.—A registered company may provide telecommunications services only

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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.".

On page 8 of the amendment, between lines 5 and 6, insert the following:

On page 36, line 13, strike "within 9 months" and insert "not later than one year".

On page 18 of the amendment, between lines 10 and 11, insert the following:

On page 74, line 1, strike "(2) SEC JURISDICTION LIMITED.—" and insert "(2) REMOVAL OF SEC JURISDICTION.—".

On page 18 of the amendment line 12, before the period insert the following: "and insert 'to grant any authorization'".

On page 18 of the amendment, between lines 17 and 18, insert the following:

On page 74, line 12, strike "contracts." and insert "contracts, and any authority over audits or access to books and records.".

On page 19 of the amendment, between lines 3 and 4, insert the following:

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

On page 22 of the amendment, beginning with "The" on line 23, strike through line 24.

On page 13 of the amendment strike lines 14 through 17 and insert the following: "is amended by adding at the end the following:"

On page 13 of the amendment, line 25, insert closing quotation marks and a period at the end.

On page 14 of the amendment, strike lines 1 through 3.

On page 9 of the amendment, line 24, strike "120 days" and insert "180 days".

On page 7 of the amendment, line 9, before the period insert "so long as the costs are appropriately allocated".

Mr. PRESSLER. Mr. President, these modifications represent minor and technical changes in the public utility company provisions, preserve current law regarding the sunset provision of section 628 of the Communications Act of 1934, and extend the period for certain market opportunity determinations from 120 days to 180 days.

Mr. President, following the remarks of my colleague, I urge the adoption of the amendment.

Mr. HOLLINGS. Mr. President, it has been cleared on this side. I join the Senator from South Dakota.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1258), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. PRESSLER. Mr. President, I ask unanimous consent the amendments included in the managers' amendment be treated as original text for purposes of further amendment during the consideration of the bill.

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

Mr. KERREY. This manager's amendment allows the FCC to modify those provisions of the modified final judgment (MFJ) that are not overridden or superseded by the bill. Does this provision of the Manager's amendment allow the FCC to change the provisions regarding the entry of the Bell operating companies into long distance or manufacturing?

Mr. PRESSLER. No. The amendment is intended, to allow the FCC to modify those provisions of the MFJ that this legislation would not modify or supersede.

Mr. KERREY. The manager's amendment changes the definition of "telecommunications service" by deleting a sentence concerning the transmission of information services and cable services. My question is whether the deletion of this sentence will affect the scope of many of the bill's substantive provisions.

For example, section 254(a) preempts State entry restrictions on the provision of "telecommunications services." Does the new definition mean that States would be allowed to restrict entry into the business of transporting information services?

Section 254(b) ensures that States can preserve universal service for "telecommunications services." Does the new definition mean that States could not preserve universal service for the transmission of any information services?

The bill provides detailed requirements that must be satisfied before the Bell companies may offer interLATA "telecommunications services." Does the deletion of that sentence mean that the Bell companies may provide interLATA transmission of information services without complying with the requirements of this legislation?

Mr. PRESSLER. The answer to each of those questions is "no".

The deletion of this sentence is intended to clarify that the carriers of broadcast and cable services are not intended to be classified as common carriers under the Communication Act to the extent they provide broadcast services or cable services.

AMENDMENT NO. 1263

Mr. PRESSLER. Mr. President, I now move to go back to the Cohen amendment. I say to Senators, a vote has been set for 7:30. Any Senators wishing to speak on this amendment or on the bill, I invite them to the floor, if that is agreeable with the Senator from Maine.

I do have some closing, about 5 minutes of closing remarks on the Cohen amendment, but I will hold those over for a bit.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Who controls the time in opposition?

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I yield as much time as the Senator from Kentucky wishes.

Mr. FORD. I do not want very much. I rise more in being inquisitive here rather than being in opposition to the amendment.

I understand what my friend from Nebraska says about competition. You come in the front door with a piece of equipment and you offer it for a certain price and if that is a little too high, there is always somebody else who will knock on the door and sell you something different.

Not many people go out in rural areas and drive 5 miles from customer to customer. They like to stay in town where you have houses and lots and there are 15 customers on one block rather than two customers in 15 miles.

My rural cable people are very concerned about this particular amendment, and I will tell you why. One, they are not sure what this will do to the small cable operator who would have maybe 250 or 500 customers, maybe 1,000, in a rural area. Will they be able to accommodate? Can they get the accommodation? Will they be able to carry things that will not be unscrambled through the boxes? Of course, our friend who promotes this amendment says everything is protected; there are temporary rules. Temporary rules that go into permanent rules? How soon will that be done? I have a lot of concern for the little people, particularly in rural areas.

There must be something special from all these technology groups. They must make the boxes and they want to manufacture them and sell them. I do not blame them.

I hate for me to be the vehicle to help them sell their products. I think they ought to be competitive, and if they have a better product, they can sell to the cable companies, if that is what is in it. But I am going to be concerned about my rural area and, somehow, I think if we could have a short study period here, perhaps we could eliminate their fears. Because, if the small rural cable operator cannot make it and then he has a financial problem and he is being pressured by the larger cable companies to buy him out, we find there will be less and less competition in the cable community than there is now out there. And the struggling small cable operator, I think, is

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getting in trouble more and more all the time. They are not concerned; they are frightened.

They are not concerned; they are frightened. When you talk to them about having to borrow money to enlarge to try to keep up with the new technology and with the new rules, all of that, it becomes almost unbearable weight; to hire lawyers, to do all these things, and the expense is just almost unbearable weight.

I hope that Senators will look at this and have a study. I do not want a long study. I just want somebody to look at it and to convince the small cable operators that this is a good thing for them, that they will not be hurt, that they will be able to have—not many small communities have Radio Shacks. They may have a Wal-Mart about 15 or 20 miles away they can drive to, but they are not going to have a Radio Shack or Electric Avenue or all of these things right close by.

So, Mr. President, I am expressing some frustration as it relates to what we do to the small operator, the small entrepreneur. Let us put his life into it. And he is still struggling to be in competition with the major that is knocking on his door every day saying, "You cannot make it fellow. Let us take it over."

I would want the Senator from Maine, if he could—he is a smart individual and is a good word merchant—if there might be some way that we could have a short period of study that would maybe just apply to small cable operators and not major ones. I hear they are going to have a credit card. Just stick it in the box, punch it, and you get your program. Not many out in the rural areas are going to have a box you can put a credit card in, punch it, pull it out, and you will get certain programs. It will be very difficult for them to do.

I am here trying to protect the small operator in my rural constituency, and I hope I will not have to oppose this amendment. I hope we can have some sort of a study as it relates to really finding out whether all of these things are possible, all of these things are doable, this competition is going to be out there, and that everything is going to be great. If you can convince my small operators or me, I would be more than willing to be an advocate of this amendment. But I was always brought up believing when in doubt, do not. I am in doubt about what this does to my small cable operators.

Mr. President, I hope that we will give serious consideration to a study. I do not want a long one, but at least a period of time to be sure that my small cable operators will not be damaged in their operation and that their financial future will not be jeopardized because of this.

To go back to Abraham Lincoln, who said, "When progress is made somebody gets hurt." That is when Abraham Lincoln was defending the railroads against the barge and ferry operators when trying to build a bridge across the Missouri River. The railroad won and it hurt the ferry operators and the barge operators. So Mr. Lincoln said, "When progress is made somebody gets hurt."

I am trying to prevent the hurt here. I have not been convinced that this will not hurt my small operators.

I yield the floor. I thank the Senator for giving the time.

Mr. PRESSLER. Mr. President, I think the goal of the Senator from Maine is very laudable, and I also believe we have to jog a little the cable industry to set a standard because they have been very slow to do so. I think the cable industry needs to get the message that we want better action from them in setting the standards. But when I get to boiling down to my concern about this amendment, it is that it says, "The commission shall, after notice and opportunity for public comment, adopt regulations to ensure the competitive availability of * * * convertible boxes, subscribers, and services of multi-channel video programs and distributors from manufacturers," et cetera. The part that worries me is that the "commission shall adopt regulations."

I am concerned that this might lock technology in. I fear it may be likely that the industry will not adopt a common standard in a timely fashion, thus involving potential standard setting by the FCC. The standards created by a Government entity may result in technology being locked in place which could result in stifling innovation. If the computer industry had been subject to a similar legislative mandate when interoperability was a real problem for early users of personal computers, I doubt our industry would be as competitive as it is today. After all, what is the top box but a small computer. If we have a standard developed by the FCC for these boxes, I think we will not have the future improvements and innovations that could occur if we simply leave the standard setting to the industry.

I cite the innovations that we have had in computers where there has not been a standard set by Government and innovation has gone forward very quickly. On the other hand, I would jawbone the cable industry very much to set a private standard so there could be more competitors.

Mr. President, this concludes my remarks on this particular amendment. I am sure there are other speakers. We have from now until 7:30, depending on Senators coming to the floor, but we are open for opening statements or statements on this or any other part of the bill.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PRESSLER. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. KERREY. Mr. President, the Senator from North Carolina is getting ready to speak.

I yield the floor.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Thank you, Mr. President.

Mr. President, in the June 2, 1995 edition of the Washington Times, there appeared a front page article which was another reminder of the serious problem of theft of intellectual property. The article makes reference to the extraordinary efforts to which signal thieves have gone to steal programming carried by cable television systems, such as movies and special programs. They obtain cable television converters, normally through illegal means, modify them to compromise the security, and then sell them to either knowing or unwitting consumers so that they can steal the programming.

Indeed, in a recent article reported in the February 20, 1995 edition of Multi-Channel News that these signal thieves are increasingly resorting to armed robbery to obtain these boxes.

Mr. President, as both articles point out, this theft is a crime. It is viewed very seriously by Federal law enforcement officials because, left unchecked, such theft could undermine our national telecommunications networks. Let us not forget that, in the late 1980's, theft of satellite service almost destroyed that industry.

Mr. President, given the high value placed on this equipment by these thieves, I am very concerned about the amendment offered by the distinguished Senator from Maine, to make such equipment available at retail. Aside from the fact that the proposal would put the FCC right in the middle of setting standards and designing equipment for advanced digital technologies, this proposal fails to adequately address the problem of these signal thieves.

The current situation is that the limited numbers of warehouses where these cable television security boxes are kept are a major target for these signal thieves. Here you have a situation where the equipment is considered so valuable that signal thieves are risking armed robbery to obtain it. Can you imagine how much worse the situation would become if that equipment were widely available at retail? Under these circumstances, it would become virtually impossible to keep it out of the hands of signal thieves.

Let us not forget that these thieves are not stealing these security boxes so that they can display them on their fireplace mantles. They are using them to steal programming. The more easily

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they can be obtained, particularly in quantities, the faster and cheaper it is for these signal thieves to mass produce modified boxes to steal programming.

Mr. President, I sympathize with the goal of the Cohen amendment. But I think that the approach taken is fatally flawed. It rests on the assumption that the Government can know that some security technique, like smart cards, can be used to facilitate retail sale. I do not know that to be true. Not even the experts at the FCC can know that to be true.

Yet the principle which underlies the amendment is that the Government can and will make the determination as to how much security is adequate. That determination will become binding on owners of intellectual property and network providers. This is not acceptable.

I believe that property owners and those acting for them should have the right to determine the level and method of security appropriate for their needs. That is an appropriate, economic business decision and not a matter for Government determination.

Moreover, it is entirely consistent with the deregulatory goals of this legislation that the chairman has consistently and clearly advocated during the debate on the underlying legislation and this amendment in particular.

This amendment is not proconsumer but it is proregulation. Therefore, I strongly urge that the pending amendment be defeated.

Mr. President, I yield the floor.

Mr. KERREY addressed the Chair.

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

Mr. COHEN. Mr. President, how much time remains?

The PRESIDING OFFICER. Fifteen minutes. The other side has 13 minutes 54 seconds.

Mr. COHEN. This side has?

The PRESIDING OFFICER. Fifteen minutes.

Mr. COHEN. How much time does the Senator need?

Mr. KERREY. I was actually going to ask the managers—I do not know—if the opponents to this amendment were going to use all 13 minutes?

Mr. HOLLINGS. No. The opponents have used time. Go right ahead.

Mr. KERREY. Did the Senator want to respond?

Mr. COHEN. I am just curious; the Senator is going to speak for the amendment or against it?

Mr. KERREY. I am still speaking for the amendment.

Mr. COHEN. All right. The Senator wants me to give him some time then.

Mr. KERREY. I wish to speak more generally about the bill.

Mr. HOLLINGS. I yield sufficient time to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. I thank very much the Senator from South Carolina.

Mr. President, this amendment is important, but I say to the Senators who will be perhaps watching, or the staffs who will be over the next 30 minutes trying to figure out OK, what is going to happen next? Where are we in this piece of legislation? Remember, there are 9 sectors of the telecommunications industry, all directed to approximately 100 million American households. That is where they do business. They are selling to commercial customers as well, but they are focused on those households, and that is where we are going to hear whether this legislation is successful or not. That is where, a year from now, a year and a half, 2 years from now, you are going to hear people say, you know, this really did work. You were telling us it was going to work. It did work.

Nine sectors. I will run through them briefly again. Broadcasting is the big one, cable is one, telephone is one, Hollywood and music recording—that is music and the images—publishing is one, computers is one, consumer electronics, which is the subject of this particular amendment, wireless is one, and satellite is one.

All nine of them, Mr. President, represent hundreds of billions of dollars' worth of sales into the American household on a constant basis. They are making judgments about what to purchase and what to buy. What has happened is that the technology has changed so that it is possible now for people to buy in a package, and what we are trying to do is give them real competitive choice.

It is going to be traumatic. What we need to do is to say what is more important to us, the trauma faced by those consumers, those citizens in the households, or the trauma of businesses as they face competition for the first time in their business lives?

Mr. President, not only does this amendment need to be adopted, but we need to change the underlying bill so that the Department of Justice, which has been the prime mover in this—I know that many of my colleagues on the other side of the aisle think the Department of Justice should be left out, with just a consultant role, if necessary. I really urge you to think about that. That is going to be the next order of business. The DOJ, the Department of Justice, is the one that started this in motion in 1948, in a consent decree, with the Department of Justice action against AT&T. That is what produced the competitive environment in long distance.

If you hook the Department of Justice of that Republican administration to another Republican administration to a Democrat administration, they have consistently been the best advocates in this Nation's Capital for competition. They are the ones that said: Look, I know you want to own all the market. I understand what you are trying to do. But you cannot. We have to keep this competitive because not only will consumers benefit, but the economy will benefit as well.

I understand people said oh, no, that is not going to work. I have talked to the companies about this. I know why they do not like it.

The Department of Justice needs to be more than just a consultant in this thing. Otherwise, I tell you, Mr. President, my colleagues, I think you are going to regret this vote. You are not going to get the kind of vigorous competition that is needed in all of these sectors, in a package fashion, that is going to have our consumers say I was paying $120 a month for all of my information, all these things taken together, all nine of them, and now I am paying $80. This is terrific. This is working.

Disregard, if possible, the companies that are coming in and saying, gee, I do not want to do it that way because this is going to be a better way.

Think about those consumers in the households. Think about those individual families in the households. This amendment is going to look a lot better, the DOJ role is going to look a lot better under those circumstances.

I suggest, Mr. President, that another particular portion of this legislation that says a local telephone company can buy a local cable company, we cannot allow that in the local area, because then you are only going to get one line to 75 percent of the homes.

So I hope as we go through this thing colleagues will see that there is an intent with this legislation to produce a competitive environment about which, if we do it, the citizens we represent will say this did work; we are glad you provided that for us.

It is not completely unregulated. It is not completely unfettered competition. The structure here that we are trying to produce allows competition to satisfy not just a public interest that we understand is still present but also a consumer interest.

So once again I understand very much the concern raised by the distinguished Senator from Kentucky and perhaps there is some accommodation that can be made in the area of a study. I do not know. I certainly would not necessarily object to that, if the distinguished Senator from Maine could work it out. But I think we have to really make sure we understand that if competition is something we are going to use to reduce prices and increase quality, then we have to turn back some folks who are going to be coming to us, and I really think the toughest one of all is going to be the Department of Justice role. And I understand people are digging in on it, but I hope you do not dig in too much because you are the one who is going to have to live by this vote. You are the one who is going to have to explain whether this works or not.

I would not be on the floor all day today and last night not feeling very strongly as I do. Unless we get this thing right, we are going to live to regret it.

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

Mr. KERREY. I will be pleased to yield.

Mr. FORD. After this amendment passes, how long does the Senator think it would take the companies to go to China and have these boxes made for practically nothing and come back over here and flood the area with them?

Mr. KERREY. There is no question the distinguished Senator from Kentucky is raising a very legitimate concern. When we lift the restrictions on manufacturing in general, which we are doing in here—and we heard earlier the distinguished Senator from Arizona coming down and saying that we finally got out of this domestic content stuff in there. That was there out of a concern we try to keep some of this manufacturing business in the United States. There is no question that is a legitimate concern.

Mr. FORD. Not only, would I say to my friend, is my concern for the small cable operator. I would encourage those who are promoting this amendment to give us an opportunity to study it. All of a sudden we get this amendment out on the floor and people have an opportunity maybe to study it for a short period of time. Competition is great, but competition putting out a lot of cable operators, small entrepreneurs struggling for a long time, does not set very well with me, and I am sure it does not set very well with the Senator from Nebraska.

Mr. KERREY. I am not the sponsor of the amendment. The distinguished Senator from Maine is. However, he would decide in that regard. I certainly would have no objection to what the Senator proposes.

I yield the floor.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I ask unanimous consent that Senator HUTCHISON and Senator LEAHY be added as cosponsors.

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

Mr. COHEN. Mr. President, I will respond briefly to the comments of the Senator from Kentucky.

He mentioned that he is from a rural State. So am I. I do not know what the population of his State is, but we have little over 1 million people in the State of Maine. I used to be the mayor of the third largest city in Maine—38,000 people. So we have a rural population in my State as well.

I doubt very much whether there are many States—no matter how rural—that do not have a Radio Shack or a Wal-Mart or a Sam's or some other major type of outlet in their States. That really is not the issue. If you live in a rural area and you do not have a Wal-Mart, Sam's, Circuit City, or Radio Shack, what you do is just keep renting your box from your cable company.

That is all you have to do. You have a choice. You do not have to buy anything. You can continue to pay the rent for the box. Your small cable company rents the box to you, and you continue to pay the rent. If you get unhappy with it, you may decide you want to make the trip 12 miles to buy another converter box.

What I am saying is consumers cannot take that signal of the cable company and steal that signal by virtue of having access to the box. That was the purpose of having the private sector develop a standard whereby cable operators protect their signal.

What the FCC does is turn to the private sector, just as they did with the phone jack. The standard for the telephone jack was developed by the private industry.

That is what we are talking about here. If you are talking about theft, what do we tell Hewlett-Packard, Compaq, or IBM or any of the other major computer developers and manufacturers today? You know something, we have a big problem—hacking. We have hackers all over the country, all over the world. They can get into the computers at the Pentagon.

The Senator from South Carolina knows about this. All the people who are here, the Senator from Kentucky and all of you, have had access to information. They can gain access to the computers in the Pentagon.

What do we do? Shut down the computers? We said, "No, let's do better. We have to develop better standards for protecting the signals, protecting the technology." That is what is going on in the private sector today. We all have been briefed on what is going on in the private sector, the kind of standards designed to prevent hackers from getting access.

What is the largest growing market today? The direct satellite television. Do you think people are putting millions or billions of dollars into developing direct satellite television if they are worried that they cannot protect their signals?

That is what is going on. The industry will develop the equipment to protect the signals. Why are you going to give cable companies, not mom-and-pop cable companies, major cable companies the opportunity to run a monopoly? For the small rural State that may have only one cable company and no marts where consumers can go to purchase a set-top box, there will be no problem. Consumers will just keep renting that same box.

Mr. President, the Senator from South Dakota said that what we really have to do is jawbone the industry. The difficulty is the jawbone is not connected to the hip bone. They are not walking, they are not running, they are not doing anything.

What they are doing is holding on to a monopoly, and they are saying, "Take our box or don't get any signal, period." What we are saying is here is an opportunity to put competition into the business so that people have a choice with lower prices and the cable company still protects its signal.

Mr. President, that is why the Consumer Federation of America and the Consumers Union endorse this particular amendment. It is why ITI supports the amendment. They also support it because they see this as an opportunity to get more competition in the field that we are supposed to be trying to get competition in—telecommunications.

I want to say to the Senator from Kentucky, I represent a small State, too. I have small cable companies. They are not particularly concerned they are going to be put out of business. Their signal is protected—maybe not well enough from somebody stealing the boxes. But the private sector will develop a standard to protect the signals.

The FCC can adopt the standard, as they have with the telephone jack, to allow any individual to go into any store—rural, urban, big mall, little shop—to buy a telephone, to buy a VCR, to buy a computer, to buy an organizer. A standard ought to apply to the set-top box as well. That is what this amendment is designed to do, to allow the private sector to get into the business of lowering the prices for consumers so they do not have the consumer at the mercy of the cable operator saying, "Take this box or else you get no signal. Rent this box or rent this telephone; you can't buy your own."

What we are saying is let us give the consumer a choice to buy a set-top box or rent one, whether you live in an urban or rural State. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, we have approximately 15 minutes until the next rollcall vote. I believe all speakers have concluded. I urge Senators who wish to make statements on the bill to come to the floor.

Mr. FORD. Mr. President, will the distinguished Senator from Maine answer a question for me, just one?

Mr. COHEN. If I can.

The PRESIDING OFFICER. Who yields time to the Senator from Kentucky?

Mr. PRESSLER. I yield time.

The PRESIDING OFFICER. The Senator from South Dakota yields time to the Senator from Kentucky.

Mr. FORD. Am I correct in that if the television set is cable ready, you do not need the box?

Mr. COHEN. That is correct.

Mr. FORD. So most television sets are becoming cable ready. They may not go up to 98—they may be 60-some-odd, most of them. So, technically, the box is not used on a cable-ready television.

Mr. COHEN. Right. Many, many homes, as you know, in the rural areas do not necessarily have the cable-ready type of television.

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Mr. FORD. As I recall, and the Senator might agree with me, we would allow only one charge under the cable bill, no matter how many TV sets you might have in your home. They used to charge you for each one, now they charge for one.

Mr. COHEN. I correct myself. You may still need a set-top box, even though you have a cable-ready television set. That is what happened in southern Maine recently where a major company as a matter of fact, said, "This box you have to rent. Even though you are currently getting our signal, this is something we are going to now prepare for the future in terms of interactive television and you must now rent this box, in order to get the signal you were getting previously through your television sets."

Mr. FORD. I wanted to clear up one thing with my friend from Maine. Time Warner withdrew that, and they no longer do that.

Mr. COHEN. They withdrew it only after great protest was raised, precisely the problem when you have a company who can come in and say, "The signal you are getting now you have to pay more for it. Now it is roughly $3 more and you are going to get just precisely the same thing you were getting before."

Mr. FORD. That is no longer being done.

Mr. COHEN. It does not prevent any other company in any other State from doing precisely the same thing.

Mr. FORD. I understand that, Mr. President, and I say to my friend, with cable ready, I do not believe you need the box. I think he agrees with me that basically that is true.

Mr. COHEN. No, because the—

Mr. FORD. I am not sure the cable company can still scramble on a cable-ready. You cannot get HBO—it is scrambled—unless you pay for it and then they release that. The box is almost a moot question in some respects. But I still have the same concern I had earlier about the small cable operator.

You have a rural State; I have a rural State. I remember the satellite dishes we put up, about $3,000 apiece, and then you had to go to the cable company and get it turned on. There are a lot of things going on. But progress has been made.

Now FCC is not going to help build anything. They are not going to mandate anything, I understand, but you are going to set standards. I agree with the chairman, when you set standards, you limit the technology in a great many places, because as long as they meet the standards, they do not have to be competitive.

We have 8 or 9 minutes we can have some debate with. But it is awfully hard for me to agree that the box is a problem, except in cases where the television set is not cable-ready. I believe what the Senator from North Carolina said a few minutes ago—it is setting up for a lot of theft as it relates to intellectual property.

I hope this amendment will be defeated. But better than that, I wish the Senator from Maine would let us study it and convince us and be sure when he comes forward with this, that we all understand it. It could be a 3-month study, 6-month study, a 1-year study, or whatever it might be, so that we can come back and that study will be available, and then we can go forward with legislation and we can probably give better instructions to the FCC.

I thank the Senator for his courtesy.

Mr. COHEN. I thank the Senator for raising the issue. It highlights the nature of the problem whereby one company can suddenly come in and decide it wants to give you a different type of service and you must rent this box in order to get what you are already paying for. Sure, there was an outcry, an outrage expressed by consumers. They were told to relax, this is for the future. We are preparing you for interactive television. They got interactive alright with the consuming public, and they were forced to take it down.

The FCC is not in the business to try and stifle developments. As a matter of fact, can we argue today that as a result of the standards developed by the private sector and incorporated by the FCC, that technology has been stifled in the telephone industry? I do not think so.

We are seeing tremendous progress being made. I point out to the Senator from Kentucky that while some people might get hurt, a whole lot of people get helped when you make progress. We are trying to help millions of people in this country acquire the technology cheaper and with greater choice, and hopefully with greater quality. That is the purpose of the amendment. So the telephone industry is a good example of what can take place with the set-top box market.

I might point out that on page three of the amendment, it indicates, "Such regulations shall take into account the needs of owners and distributors of video programming and information services to ensure system and signal security and prevent theft of the programming or services; and, secondly, the need to ensure the further deployment of new technology relating to converter boxes."

I say to those who are arguing that this is being raised to stifle technology, it is just the opposite. Those against this amendment want to stifle competition. Those who vote for this amendment will vote for the Consumer Federation of America and the Consumers Union.

When the vote comes at 7:30, those people here that are concerned about getting more choice to the public, getting better quality, and getting more competition will vote to support the amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. COHEN. Mr. President, just before our time expires, I want to indicate that this amendment certainly is not a partisan issue, as you can see from the debate that has taken place, with the Senator from Nebraska joining the Senator from Maine, and others who have expressed support for this amendment.

I also point out that in the other body, Congressman BLILEY, the chairman of the House Commerce Committee, and also Congresaman MARKEY, the ranking member on the House Telecommunications Subcommittee, have endorsed the legislation and, in fact, have reported it out of the committee. So the legislation is bipartisan in the House. I hope the bipartisan support for this amendment will be reflected in the vote here this evening.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. PRESSLER. Mr. President, an up or down vote has been agreed to.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1263 offered by the Senator from Maine [Mr. COHEN].

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

Mr. LOTT. I announce that the Senator from Texas [Mr. GRAMM], the Senator from Arizona [Mr. MCCAIN], the Senator from Alabama [Mr. SHELBY], and the Senator from Arkansas [Mr. STEVENS] are necessarily absent.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is necessarily absent.

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

The result was announced—yeas 30, nays 64, as follows:

[Rollcall Vote No. 245 Leg.]

YEAS—30

Ashcroft	Chafee	Graham
Boxer	Cohen	Hatfield
Bradley	Feingold	Hutchison
Bumpers	Feinstein	Jeffords
Byrd	Glenn	Kassebaum

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Kerrey	Moseley-Braun	Simpson
Lautenberg	Pell	Snowe
Leahy	Rockefeller	Thompson
Levin	Roth	Thurmond
Lieberman	Simon	Wellstone

NAYS—64

Abraham	Dorgan	Lott
Akaka	Exon	Lugar
Bancus	Faircloth	McConnell
Bennett	Ford	Mikulski
Bingaman	Frist	Moynihan
Bond	Gorton	Murkowski
Breaux	Grams	Murray
Brown	Grassley	Nickles
Bryan	Gregg	Nunn
Burns	Harkin	Packwood
Campbell	Hatch	Pressler
Coats	Heflin	Pryor
Cochran	Helms	Reid
Conrad	Hollings	Robb
Coverdell	Inhofe	Santorum
Craig	Inouye	Sarbanes
D'Amato	Johnston	Smith
Daschle	Kempthorne	Specter
DeWine	Kennedy	Thomas
Dodd	Kerry	Warner
Dole	Kohl	
Domenici	Kyl	

ANSWERED "PRESENT"—1

Mack

NOT VOTING—6

Biden	McCain	Stevens
Gramm	Shelby	

So the amendment (No. 1263) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. PRESSLER. Mr. President, I hope the Senator from North Dakota will bring his amendment forth.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, my understanding is the pending business is the Dole amendment. I ask unanimous consent that the Dole amendment be set aside so that I might offer an amendment.

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

AMENDMENT NO. 1264

(Purpose: To require Department of Justice approval for Regional Bell Operating Company entry into long distance services)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota (Mr. DORGAN), for himself, Mr. SIMON, Mr. KERREY, Mr. REID, and Mr. LEAHY, proposes an amendment numbered 1264.

The amendment is as follows:

On page 82, line 23, beginning with the word "after", delete all that follows through the words "services" on line 2, page 83 and insert therein the following: "to the extent approved by the Commission and the Attorney General".

On page 88, line 17, after the word "Commission", add the words "and Attorney General".

On page 89, beginning with the word "before" on line 9, strike all that follows through line 15.

On page 90, line 10, replace "(3)" with "(C)"; after the word "Commission" on line 17, add the words "or Attorney General"; and after the word "Commission" on line 19, add the words "and Attorney General".

On page 90, after line 13, add the following paragraphs:

"(4) DETERMINATION BY ATTORNEY GENERAL.—

"(A) DETERMINATION.—Not later than 90 days after receiving an application made under paragraph (1), the Attorney General shall issue a written determination with respect to the authorization for which a Bell operating company or its subsidiary or affiliate has applied. In making such determination, the Attorney General shall review the whole record.

"(B) APPROVAL.—The Attorney General shall approve the authorization requested in any application submitted under paragraph (1) only to the extent that the Attorney General finds that there is no substantial possibility that such company or its subsidiaries or its affiliates could use monopoly power in a telephone exchange or exchange access service market to impede competition in the interLATA telecommunications service market such company or its subsidiary or affiliate seeks to enter. The Attorney General shall deny the remainder of the requested authorization."

"(C) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (4), the Attorney General shall publish the determination in the Federal Register."

On page 91, line 1, after the word "Commission" add the words "or the Attorney General".

AMENDMENT NO. 1265 TO AMENDMENT NO. 1264

(Purpose: To provide for the review by the Attorney General of the United States of the entry of the Bell operating companies into interexchange telecommunications and manufacturing markets)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for himself, Mr. D'AMATO and Mr. DEWINE, proposes an amendment numbered 1265 to amendment No. 1264.

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

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

The amendment is as follows:

On page 82, line 23, strike "after" and all that follows through "services," on page 83, line 2, and insert in lieu thereof "to the extent approved by the Commission and the Attorney General of the United States,".

On page 88, line 17, insert "and the Attorney General" after "Commission".

On page 89, line 3, insert "and Attorney General" after "Commission".

On page 89, line 6, strike "shall" and insert "and the Attorney General shall each".

On page 89, line 9, strike "Before" and all that follows through page 89, line 15.

On page 89, line 16, insert "BY COMMISSION" after "APPROVAL".

On page 90, between lines 9 and 10, insert the following:

"(C) APPROVAL BY ATTORNEY GENERAL.—The Attorney General may only approve the authorization requested in an application submitted under paragraph (1) if the Attorney General finds that the effect of such authorization will not substantially lessen competition, or tend to create a monopoly in any line of commerce in any section of the country. The Attorney General may approve all or part of the request. If the Attorney General does not approve an application under this subparagraph, the Attorney General shall state the basis for the denial of the application.".

On page 90, line 12, strike "shall" and insert in lieu thereof "and the Attorney General shall each".

On page 90, line 17, insert "or the Attorney General" after "Commission".

On page 90, line 19, insert "and the Attorney General" after "Commission".

On page 91, line 1, insert "or the Attorney General" before "for judicial review".

On page 99, line 15, strike out "Commission authorizes" and insert in lieu thereof "Commission and the Attorney General authorize".

On page 99, line 18, insert "and the Attorney General" after "Commission".

On page 90, line 6, after "necessity", insert: "In making its determination whether the requested authorization is consistent with the public interest, convenience, and necessity, the Commission shall not consider the effect of such authorization on competition in any market for which authorization is sought.".

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. DORGAN. I am happy to yield.

Mr. DOLE. Is there a time agreement on this amendment?

Mr. HOLLINGS. Not yet, no.

Mr. DOLE. Would there be a possibility of having a time agreement?

Mr. DORGAN. I would not agree to a time agreement at this point. This is one of these major issues on this bill. I think that we have an amendment in the second degree. I think this will have to be explored at some length.

Mr. HOLLINGS. Could we agree to debate it tonight and vote first thing tomorrow?

Mr. DORGAN. I would not agree to that time agreement.

Mr. PRESSLER. If my colleague will yield, if we could debate all this evening, and have a vote at 9 in the morning, would that be agreeable?

Mr. DORGAN. My point is, I do not want to agree to a time agreement on these issues. We have two amendments on the Department of Justice's role here. This is I think one of the central issues in this bill. If you are suggesting that we ought to now, in the next few hours, debate when a number of Members will probably not be here and have a vote in the morning, I do not think that there is an urgency on this bill to move to a vote on one of the central issues in this bill by 9 o'clock in the morning. So I would not agree to a time agreement at this point.

Mr. PRESSLER. If my colleague will yield, we could debate until midnight or beyond, and Members who wish to speak could speak tonight and vote at 9 in the morning. Everybody could speak who wants to speak this evening.

Mr. DORGAN. I would respond that I do not at this point propose to accept a time agreement. I think what we ought to do is have the debate and see

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which of our colleagues wish to weigh in on these issues. This is, as I said, one of the central issues in this bill. I think at least from my observations there are many Members on both sides who will want to be heard, and many of them want to be heard at some length on these two amendments. I think it is premature to be seeking a time agreement.

Mr. DOLE. Will the Senator yield? But we are prepared to debate it at some length tonight; is that correct?

Mr. DORGAN. Oh, yes.

Mr. DOLE. There will be no more votes tonight. We will try to see what happens in the next couple of hours. It is a very important amendment, and it is central to the debate. I do not have any quarrel with the amendment of the Senator from North Dakota nor the Senator from South Carolina. I am not trying to crowd anyone. I want my other colleagues to know what they can expect.

So I think it is safe to say, if it is all right with the Democratic leader, there will be no more votes tonight. We will take another look at it at 10 o'clock, 11, whatever, whoever is still here.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota has the floor.

Mr. DORGAN. Mr. President, as Members know, I offered the amendment and the amendment has been second-degreed by an amendment offered by Senator THURMOND, and we will, I expect, debate the merits of both amendments at this point.

As I indicated to the majority leader, this is, I think, one of the central issues in the telecommunications bill that the Senate must consider.

When I spoke this afternoon on this legislation, I talked about the breathtaking changes in our country especially in the area of telecommunications, technology, the building of the information superhighway. I also talked about what telecommunications technology means to the people in this country and our future.

I must say that the people in the private sector in our country have been investing money, and taking risks. I commend them for that. The risk-taking entrepreneurs, I think have brought enormous fruits of accomplishment to our country. Their advances in technology will improve life in our country in many, many ways. It creates jobs; it provides entertainment. It does many, many things that are important for our country.

The question of how we develop the information superhighway, who benefits from it and what are the rules in a competitive economy we are now confronting.

The industry, dealing with 1930's laws that were originally established in telecommunications, has been out developing its own course largely because there have not been guidelines established by Congress. The Senator from South Dakota and the Senator from South Carolina now bring to the floor a piece of legislation that says let us update the 1930's laws and let us talk about the guidelines, what are the conditions of competition. And this legislation, I think, has a lot to commend it to the Members of the Senate.

So I have supported the legislation out of the Commerce Committee but have indicated that I feel there are some problems with the legislation, one of which is the role of the Justice Department in establishing the criteria for when competition exists with respect to local service carriers and when those local service carriers, namely, the regional Bells, can go out and engage in long distance competition.

The Commerce Committee passed a telecommunications bill last year, and a bill was passed by the entire House of Representatives, that included provisions with respect to the tests that should be met before the Bell systems should go out and begin to compete in long distance.

That test was very simple. It's called the VIII(c) test. VIII(c) provides a test for the Department of Justice to perform its assigned and accustomed role to determine when there is competition in local service and when then the Bell systems will be allowed to go out and compete in long distance service.

VIII(c) existed last year in the telecommunications bill that was passed in the House and the Senate Commerce Committee. All of a sudden this year that test vanishes. That's why I propose in my amendment to establish the VII(c) test.

Some say, gee, that is a radical requirement, an VIII(c) test for the Justice Department. So radical, it is exactly what the House passed last year, so radical it is exactly what the Senate Commerce Committee passed last year. It is not radical at all. It is exactly what the Justice Department role should be in evaluating when sufficient competition exists in the local exchanges so that the Bell systems will be free to engage in long distance services.

I wish to remind my colleagues of the experience we have had with airline deregulation. When we deregulated the airlines we said that the role of determining when sufficient competition existed and whether mergers should be allowed will be assumed by the Department of Transportation. The Department of Justice shall have a consultative role.

What has happened as a result of that? Well, you have all seen what has happened. We have seen the large airlines in this country grow larger through acquisition and merger. They have bought up the regional carriers. So now we have fewer airlines and bigger airlines; in other words, less competition.

It is interesting to me that when we have seen some of these mergers proposed, the Department of Transportation consults with the Department of Justice, and the Department of Justice says, well, we do not think this merger would be in the country's interest from a competitive standpoint; we think it would diminish competition. And then the Department of Transportation says, we do not care about that; we are going to allow the merger to occur anyway.

That is a sample of what happens when you take the Justice Department out of the decision making in these areas.

Now, we have, over a long period of time in this country, established the Justice Department as the referee in the issue of where and when sufficient competition exists with respect to questions like this. But this bill comes to the floor and says well, now, let us see if we can do something different. Let us take the Justice Department; let us clip their wings. Let us defang the Justice Department with respect to its ability to make judgments about what is in the public interest and what is not in the public interest in this particular area.

I listened intently about the subject of competition. Members of the Senate have come to the floor of the Senate and talked about the market system and competition. I think the market system is a wonderful thing, and it has brought this country enormous benefits. It is the way this country has become as strong as it is—market system, free and open competition.

But if you believe in the market system and competition, then you have to, in my judgment, stand up for these kinds of issues. You have to stand up for the role of the Justice Department to investigate and evaluate what represents antitrust, what kinds of conditions must we insist upon to ensure competition, because if you are not standing up for those kinds of things that ensure competition, in my judgment you are no friend of the marketplace. You are no friend of free markets. That is the reason I offer this amendment to the Senate tonight.

This amendment utilizes the standard that is found in section VIII(c) of the modified final judgment with which most of us are familiar. This amendment requires the Bell systems to show there is no substantial possibility that it could use its monopoly power to impede competition in the long distance market.

The standard I propose is well understood. It has been applied by the Department of Justice and the courts since 1982. The standard protects competition in long distance services by limiting the entry to cases where local monopolies have ceased to exist or the potential for abuse of power in local markets is absent.

Now, under the bill as reported, as I have indicated, the Bell systems need only apply to the FCC to enter long distance services, and the FCC would use what is called a public interest standard and determine that the Bell systems have completed the competitive checklist. They might ask the Justice Department in a consultative role

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but it will not matter, because the FCC will make the judgment.

Well, the problem with that is this. The FCC is a regulatory agency and the Department of Justice is the agency that has had over time and does have the capability of evaluating the issue of competition.

The Department of Justice is the agency with the expertise in protecting and promoting competition in telecommunications markets. It was the Department of Justice that investigated and sued to break up the Bell system monopoly, which resulted in making the long distance and manufacturing markets competitive.

All of us understand what has resulted from that. Those areas of the telecommunications system that are competitive, namely, now long distance and manufacturing—and let me say, especially long distance—those areas have produced enormous rewards for the consumers: lower prices and substantial changes in opportunity for choice. You can go to any one of hundreds of long distance carriers these days and find a wide variety of choices at competitive prices, prices much, much lower than consumers paid when the old monopoly system existed.

I have indicated that we have seen what has happened with respect to another deregulation model, airlines. When the airline deregulation occurred and the opportunity to judge the competitiveness of certain future structures was given not to the Department of Justice, but instead to the Department of Transportation, we understand what happened. The consumer, in my judgment, has been shortchanged. Mergers that should not have been allowed which the Department of Justice said were anti-competitive were allowed by the Department of Transportation.

If we do not change this bill, if we do not impose this VIII(c) test, in my judgment, we will be left in the same position with respect to telecommunications as we have been with the airlines, and it will not be a friendly position for the American consumer.

The fact is the Department of Justice has promoted competition in the telecommunications industry under both Republican and Democratic administrations. The AT&T investigation began under the Nixon administration. The suit was filed under the Ford administration. It was pursued through the Carter administration, and it was settled during the Reagan administration. On a bipartisan basis, the Department of Justice, I think, has stood up for the interests of the American consumer, attempting to require and impose a competitive test.

You have heard in discussion on the floor of the Senate that the breakup of the Bell system meant that long distance telephone rates have dropped 66 percent and the long distance competitors have constructed four nationwide fiber optic networks in this country, which is now the backbone of the information superhighway.

If we do not include in the telecommunications legislation the kind of amendment I am proposing, the role that would traditionally have been the role for the Department of Justice will become the burden of enforcement for the FCC. The FCC, I think, clearly is ill-equipped to adequately serve that function.

In 1987, the GAO reported that at its existing staff level, the FCC would be able to audit carrier cost allocations in order to protect ratepayers from cross-subsidization only once every 16 years, and then only on the major carriers.

A 1993 GAO report found that as of 1992, the FCC staff of 14 auditors could, on average, cover the highest priority audit areas once every 11 years and all audit areas once every 18 years. The GAO concluded in that February 1993 report that at the current staffing level, the FCC cannot, in the GAO's words, "provide positive assurance that ratepayers are protected from cross-subsidization."

The only way, in my judgment, to assure that true competition is existing at the local level—and when that exists we free the Bell systems to compete in the long distance area—but the only way to assure that true competition exists is to look at the actual marketplace facts, and the place to do that, the proper place to do that is in the Department of Justice.

I mentioned earlier that last year the very test that I am proposing today for this legislation was in the bill passed by the House of Representatives. That bill passed in the U.S. House with 420 votes. The Senate Commerce Committee passed legislation by an 18-to-2 vote, and it included what I now propose we add to this legislation. So it will be interesting to hear the cries of those who come to the floor and say, "Gee, this is way out of bounds, this is really radical stuff you are proposing." I want to hear the wailing of those who oppose this and ask them if what the House of Representatives did with 420 votes last year or what the Senate Commerce Committee did by an 18-to-2 vote last year was truly radical, or has somehow the public interest standard changed in 12 months? And if so, what is that change? Did the election last year tell us that the Department of Justice had to have its wings clipped with the question of whether or not there is competition before we decide to change the circumstances under which the Bell systems can compete for long distance? I do not think so.

I think the American people expect and the American people would require us to believe that competition is fair competition and that true competition exists before we decide to allow the Bell systems to get involved in long distance and potentially create monopolistic conditions in a segment of the industry that is now highly competitive.

I want to read some comments about last year's test, which I now propose in this year's bill. James Cullen, the president of Bell Atlantic, March 8, 1994, wrote a letter to Senator HOLLINGS, and he said this about the standard I am now proposing:

> The section VIII(c) standard is the correct test for whether a Bell company should be allowed to provide interstate long distance services. Under this test, the restrictions imposed on a Bell company shall be removed upon a showing by the petitioning BOC that there is no substantial possibility that it could use its monopoly power to impede competition in the market it seeks to enter.

Cullen also confirmed that the VIII(c) test was the appropriate test when he testified before the Senate Commerce Committee on May 12, 1994.

The CEO of Pacific Telesis, Sam Guinn, wrote to Senator HOLLINGS on March 16, 1994, stating this:

> The VIII(c) test—the ability to impede competition in the market we're entering, the long distance market—is the appropriate test. A test based on local competition just won't work.

William Weiss, then chairman and CEO of Ameritech, wrote to Senator Danforth saying:

> An entry test, based on antitrust principles, must focus on conditions in the market one is seeking to enter. The modified final judgment (MFJ) provides just such a test. * * * The MFJ provides that the line of business restrictions, including the long distance prohibition, shall be removed when there is no substantial possibility that a regional company could use its monopoly power to impede competition in the market it seeks to enter.

Again, that is from William Weiss, then chairman and CEO of Ameritech.

In fact, Ameritech recently reached an agreement with the Justice Department to conduct a trial to offer long distance service from Grand Rapids, MI, and Chicago, IL. Under that trial, the Department of Justice would have to evaluate competitive conditions in the marketplace to determine that those conditions ensure there is "no substantial possibility that commencement of the experiment could impede competition in interLATA service."

That trial not only uses the VIII(c) standard, but it also requires that actual competition exists prior to Ameritech offering long distance services.

I had the opportunity to visit with Anne Bingaman at the Justice Department, who is in charge of the Antitrust Division, about this very agreement. It is interesting that this agreement uses the VIII(c) test.

There are plenty of claims and there is a great deal of discussion on the floor about this issue, largely because it is an issue that is very controversial at this point.

We have a bill before us that deals with literally hundreds of billions of dollars of revenue to very important segments of our economy, and the industry's breakdown between the long distance industry, the local service carriers. I understand why they would

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use some of these things in their own self-interest. I am not interested in their self-interest at this point. I want the telecommunications industry to do well, and I want them to do well especially for our country.

My interest, however, on the floor of the Senate is the public interest. The question is not what benefits them. The question is what benefits the American citizens in the longrun? What benefits our country? What advances our country's economic interests, our public interests?

I think if we evaluate that, we will understand that imposing a requirement that competition exist at the local level before we unharness in the modified final judgment the Bell systems to go compete in the long distance system is in the best public interest. I know some make the case that is not necessary; the FCC can do it. Some make the case that the Justice Department role should not be such a strong role. But they do that, in my judgment, because they represent—or they argue the interests of an $80 to $100 billion enterprise out there, the enterprise of local service carriers who want to do something and are prevented from doing it now and who want to be able to unharness themselves with the least possible difficulties. I do not want to put up roadblocks. If they want to compete in long distance, they have every right to do it, as long as they are allowing competition in the local exchanges.

The question is, how can you demonstrate that? All of us understand that it is easy to decide to say you are now allowing local competition. It is easy to create conditions in which you try to demonstrate that is the case, but even as you create conditions to demonstrate that is the case, you can suddenly create other conditions to make it more difficult. Everyone understands that. That is the danger and the dilemma.

We are interested in this 8(o) test, in true competition. We are not interested in theory. We are interested in when true competition exists in the local exchanges, because when it exists, then there is no disagreement on the floor of the Senate about whether the Bells ought to be able to involve themselves in long distance service. Of course, they should.

But the question is when it exists, and who should be the arbiter of that? Those who argue for a weaker standard in the Department of Justice, in my judgment, are making a very serious mistake. It is a mistake that was not made in the last session by the House of Representatives or by the Commerce Department. But something has changed. I do not think it is the facts. I think the political dynamic has changed in some way, and I hope that the public interest need prevails on this issue.

The public interest need, in my judgment, is to have the U.S. Justice Department play the role they have always played on behalf of the American citizens—to make sure there is robust, healthy competition. When it exists, then we unleash the opportunities for those who now have monopolistic power to get involved in the long distance service. But until it exists, they should not be allowed to do so. Until the Justice Department—the Department with the experience, background and knowledge to make that judgment—is given full opportunity to do so by amending this portion of the bill, I think the American people will be shortchanged. I hope that we will, at this point, reject the second-degree amendment when we get around to voting and that we will adopt the 8(c) standard. I expect there will be a lot of discussion between us in the intervening hours today, tomorrow, Monday, or whenever we vote on these issues. I think this will be one of the most important issues that we resolve on the floor of the Senate as we seek to advance legislation establishing new rules for the 1990's and into the next century in the telecommunications industry.

Let me finish with one additional statement about this issue, and then I want to speak to other areas at some point later in the debate. There is ample discussion on the floor of the Senate about the fruits of competition in these areas. I come from a part of the country where I swear that there will not be much competition. A county of roughly 3,000 people is not going to attract a lot of competitors. A hometown of 300 people is not going to be the cause of fierce competition between eight carriers who want to serve these 800 people. That is not the way competition works. Competition exists in a free market to maximize profits in areas where you yield maximum returns. That is in the affluent neighborhoods of America, in the population centers of America. That was true under deregulation of the airlines, and it will be true under deregulation of the telecommunications industry.

That is why another part of this bill that I care very much about are the protections in this bill for rural America—not protections against competition, but protections to make sure we have the same benefits and opportunities in rural America for the build-out of the infrastructure of this telecommunications revolution, as we will see in Chicago, Los Angeles, New York, and elsewhere. Our citizens are no less worthy of the opportunities that are brought to them by this industry than citizens who live in the biggest cities of our country.

I think once we establish the public interest tests of this legislation, we must do it not only with respect to the role of the Department of Justice, which is important, but also with respect to the issue of universal service and with respect to the issue of concentration of ownership in broadcast facilities. I think if we address those properly, and if we do our jobs the way I think people expect us to, I think we will have produced a good bill—good for this country, good for all citizens of this country regardless of where they live.

With that, Mr. President, I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise today with Senators D'AMATO and DEWINE to offer an amendment to ensure that fundamental antitrust principles will be applied by the Antitrust Division of the Department of Justice to determine when the Bell Operating Companies should be allowed into the long distance and manufacturing markets. My amendment establishes a legal standard to be applied by the Justice Department based on section 7 of the Clayton Act, which the Congress passed in 1914. Under this standard, the Bell companies would be permitted to enter into long distance and manufacturing unless the effect of entry would "substantially lessen competition, or tend to create a monopoly."

Section 7 of the Clayton Act is the well-established and well-known standard used nationwide to determine whether mergers and joint ventures—which affect the economic course of our country—are pro-competitive or not. Indeed, we rely on this Clayton section 7 standard even in areas of national security, as in the recent merger of defense giants Lockheed and Martin Marietta. In the same way, this antitrust standard should be used to determine whether competition and consumers will be served by Bell company entry into new markets.

As chairman of the Judiciary Committee's Antitrust, Business Rights, and Competition Subcommittee, I firmly believe that we must rely on the longstanding bipartisan principles of antitrust law in order to move as quickly as possible toward competition in all segments of the telecommunications industry, and away from regulation. Applying antitrust concepts is vital to ensure that free market principles will work to spur competition and reduce government involvement in the industry.

The standard for permitting Bell company expansion from their local exchange markets into long distance and manufacturing may well be the most important antitrust question in this legislation. This issue results from the 1982 antitrust settlement which divided the single Bell system monopoly into the seven regional Bell companies, and limited the lines of business they could pursue. The debate centers on whether those seven Bell companies should be allowed into long distance and manufacturing markets while maintaining their current market position in local telephone service. The concern is that despite detailed rules, the Bell companies may be able to use their market power in local telephone service to harm competition in the long distance

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and manufacturing markets where competition already exists.

It is generally desirable to have as many competitors as possible in each market. I want to make clear that the Bell companies certainly should be allowed to enter long distance and manufacturing under appropriate circumstances. The question is merely when. But the Bell companies should not be allowed to enter without consideration of whether their entry will harm competition. S. 652 does not require antitrust analysis on this point and provides only a minimal consulting role for the Department of Justice.

As drafted, S. 652 allows the Bell companies to get into the long distance and manufacturing markets if they meet a checklist and the FCC finds that entry is in the public interest. The checklist is intended to permit other companies to enter the Bell companies' local exchange markets and compete with the Bells. But the checklist does not require that anyone actually compete with the local exchange monopoly. Moreover, S. 652 appears to require only a single interconnection agreement between a Bell company and a potential competitor—no matter how small—before the Bell company can seek to enter long distance.

Mr. President, I am not confident that this checklist will be adequate to take the place of thorough antitrust analysis. It would be unwise to ignore antitrust analysis. It would be unwise to ignore antitrust principles and risk harm to the substantial competition which has developed in telecommunications markets over the last dozen years through the application of antitrust principles.

The Clayton section 7 standard in my amendment is much more moderate than the so-called "8-C" test from the Modification of Final Judgment which broke up the Bell system monopoly. It is my belief, as one long interested in competition and our antitrust laws, that the language from Clayton section 7 is the best standard to employ. This standard permits the flexible analysis needed to determine when the Bell companies should be allowed to enter into long distance and manufacturing markets.

The Clayton section 7 test would permit Bell company entry into long distance and manufacturing unless entry would substantially lessen competition. Clearly, we should not permit entry which would not only lessen competition, but would substantially lessen competition. The Clayton section 7 standard is well understood and can be fairly applied to ensure ongoing competition in telecommunication markets. The Clayton standard has been applied in each merger in the telecommunication industry, including several large recent ones. This standard provides the proper incentives to the Bell companies to encourage them to open local monopolies to competition, rather than meeting the minimal requirements of a checklist.

Let me make very clear that this Clayton section 7 standard does not necessarily require the Bell companies to lose any market share or even face actual competition in their local exchange markets. The Bell companies often assert that their entry into long distance and manufacturing would benefit competition. If this is true, they could enter those markets promptly under a Clayton section 7 standard, because competition would not be substantially lessened.

Although the Bell companies may not support this standard, it is noteworthy that in the past Bell companies were less critical of the more stringent 8-C test. In fact, there was agreement among Bell companies concerning the 8-C test in the last Congress when negotiating over telecommunications legislation. If the higher standard of the 8-C test was acceptable last year, the familiar Clayton section 7 standard should be considered far more reasonable.

If this antitrust analysis is to be undertaken, as I and many other Members believe it should, the Antitrust Division of the Department of Justice has the necessary background and expertise to conduct the analysis. The Justice Department has some 50 attorneys and other professionals with antitrust expertise in the telecommunications area. The Justice Department was responsible for the breakup of the Bell system monopoly which has resulted in significantly greater competition, and has been continually involved in the industry since that time.

It would be redundant and inefficient to ignore the proven track record and expertise of the Justice Department and begin to develop such know-how in another agency. The Federal Communications Commission does not have expertise in antitrust law, and history shows that it is not desirable to attempt to develop antitrust expertise across a range of Federal agencies. For example, it is now recognized that the Department of Transportation did not give adequate weight to antitrust principles when it conducted its own antitrust analysis of airline mergers. Although the Justice Department had a consulting role, the Transportation Department disregarded the important antitrust expertise of the Justice Department, and approved deals which have resulted in excessive concentration in the airline industry, and higher prices for consumers. It is vital that we avoid this mistake here.

Mr. President, these antitrust issues in the telecommunications legislation affect a huge sector of our economy, and impact every consumer and business in our Nation. The hearing by the Antitrust, Business Rights, and Competition Subcommittee, which I chaired last month, confirmed the importance of ensuring that S. 652 embraces antitrust principles which are adequate to encourage competition and benefit consumers. These principles have been tested and refined by more than 100 years of antitrust analysis and experience in our Nation.

The purpose of the antitrust laws is not to favor one group over another, but to apply objective principles to encourage competition for the benefit of consumers. When antitrust principles are observed, competition is maximized resulting in lower prices, better services and products, and more innovation for the benefit of consumers and our Nation. If antitrust principles are ignored, however, competition is likely to suffer and concentration of market power in a few companies may lead to harm to consumers, less innovation, and the end of our country's leadership in telecommunications.

Finally, I would note that despite the current claims by some, this important issue of Bell company entry generally has not been partisan in the past. In addition to the concerns of Democratic Members and the current Administration, Republicans have long been champions of applying our antitrust laws in the telecommunications field. In fact, the break up of the Bell system monopoly resulted from the antitrust investigation by the Justice Department begun during the Nixon Administration, from antitrust litigation brought by the Justice Department during the Ford Administration, and from the settlement by Assistant Attorney General William Baxter during the Reagan Administration. In fact, Mr. Baxter wrote to me last month on this subject, encouraging an ongoing role for the Department of Justice in determining when the Bell companies should get into other lines of business, which I included in my Antitrust Subcommittee hearing record. The current antitrust head at the Department of Justice asserts that same position.

For all of these reasons, I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I think we have come to a key part of this debate. As I see it, we are trying to decide whether or not the Department of Justice should have a regulatory role in this whole matter.

Under the bill brought to the floor by Senator HOLLINGS and me and others, and by the Commerce Committee, there is a checklist test at the FCC and there is a public interest test at the FCC. There is also required that the Attorney General be consulted. And he might make a recommendation based on the 8(c) test, or he might make a recommendation based on the Clayton Act, or he might make a recommendation on public interest standards.

The Justice Department is not supposed to be a regulatory agency. Its duties are in the antitrust area. If we adopt either of these amendments, we are basically continuing to employ about 200 people over at Justice who are regulators and not people who interpret antitrust law. We are making the Department of Justice into a regulatory agency when it is supposed to be

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dealing with interpretations of antitrust law.

What has happened under Judge Greene's order, partially out of necessity, is that the Justice Department began hiring whole legions of people over there to administer the consent decree. For example, the Ameritech waiver has been cited. The Ameritech company in the Chicago area has been, quite rightly, allowed to do some things by the Department of Justice under Judge Greene's consent decree. And quite appropriately, because Congress has not acted.

That is one thing about this bill. We are at least trying to get Congress to do this instead of the courts. But if we allow the Justice Department to begin regulating, it will be like in the Ameritech decision. I am not saying the Ameritech decision is wrong, but it shows how the Justice Department likes to use its people as regulators.

That Ameritech waiver, the proposed waiver, creates a highly regulatory process under which Ameritech may be able to obtain temporary interLATA authority, but only on a resale basis and only for calls originating from the Illinois portion of the Chicago LATA and the Grand Rapids LATA in Michigan, areas that serve only 1.2 percent of the area's population.

But the point is, the chief regulator in this process is the Department of Justice, the same Department that has frequently taken from 3 to 5 years to process waivers under the existing decree. So this means we are probably adding 3 to 5 years of regulation if we adopt the amendment by my friend from North Dakota. This is more Government regulation. This is supposed to be a deregulatory bill. We are supposed to be deregulating here, but we are adding another formal layer of regulation.

We have already pointed out that the Ameritech decision is illustrative of the regulatory function of the Department of Justice. And they want to keep these people employed over there. They want to keep on being regulators. They want to be something other than what they are constitutionally created to be. After this bill passes, the Department of Justice will not have to carry out that role. That will save the taxpayers a lot of money; moreover, it will lessen regulation. Indeed, I would like someday to see the FCC substantially reduced.

But under this amendment we are not only keeping the FCC using both the checklist and the public interest standard, we are also going a step further and saying after they get through we are going to send it over to Justice and do the same thing all over again with another set of regulators. That will take 3 to 5 years, I do not care how you slice it, because that is the way it has been in the past and that is the way the Department of Justice functions. Anything that goes over there, it will take 3 to 5 years to get a decision out and there is ample evidence to illustrate that.

The point I made about Ameritech is that it shows the Department of Justice likes even to write telephone books over there. That is not the business they are supposed to be in. They are in the business of antitrust and the big picture of law.

The Dorgan amendment would give the Department a separate, independent clearance in addition to the FCC's clearance for determining whether the Bell operating companies have complied with the checklist for opening their networks to their new competitors.

Providing this authority to the Justice Department is unprecedented. The Antitrust Division of the Justice Department has never had decisionmaking authority over regulated industries or any industry. Justice was given a role under the modified final judgment, the consent decree which governed the breakup of AT&T. One of the key reasons for passing telecommunications legislation is once and for all to establish national policy, thus phasing out the MFJ.

How is the modified final judgment administered today? The U.S. district court retains jurisdiction over those companies that were party to the MFJ. The court then asked the Justice Department Antitrust Division to assume postdecree duties. The Antitrust Division provides Judge Harold Greene of the district court with recommendations regarding waivers and other matters regarding the administration of the MFJ.

Does the Antitrust Division have decision authority over the MFJ? No. The U.S. district court, in the person of Judge Greene, has sole decisionmaking authority over the administration of the MFJ. The Antitrust Division at Justice essentially acts as Judge Greene's staff attorneys. Obviously, those several hundred attorneys in Justice want to keep their jobs, and the Justice Department wants to keep that bureaucracy going.

Let us review the kind of job that has been done there by those regulators in the Justice Department. First of all, the Justice Department has not conducted triennial reviews effectively, or every 3 years, as it is supposed to. When the MFJ was instituted, Justice said it would conduct reviews every 3 years, known as the Triennial Review, to make recommendations to the court regarding the continued need for restrictions implemented under the MFJ. The Triennial Reviews were to provide parties to the MFJ with a "benchmark" by which to gain relief.

Since 1982, only one Triennial Review has been conducted.

Waiver requests: Justice is slow—very, very slow. Bell operating companies are required under the MFJ to obtain DOJ review of waiver requests before filing with the district court.

In 1984, Justice disposed of 23 waiver requests with the average age of waivers pending at Justice being 2 months. In 1994, Justice disposed of 10 waiver requests with the average age of the 30 waivers pending at DOJ at the end of the year being approximately 30 months. That is, people had to wait 30 months for a decision.

Justice review of the waiver requests takes almost as much time for each waiver as the time that was intended to elapse between the Triennial Reviews, which have not been done. One may think that many of these waiver requests must be controversial because they take so long for Justice to make a decision. This is not the case. In fact, the district court has approved about 96 percent of the waiver requests filed before it.

So I say we should say no to a coequal Justice role in regulation.

The Justice track record in fulfilling its obligations under the MFJ is poor. Why would Congress wish to give the Department an unprecedented role that they do not have under the existing MFJ?

S. 652 gives Justice a role but instead of reporting to Judge Greene with its recommendations, the Justice Department would make its recommendations to the FCC, the proper authority.

There is no reason why two federal entities should have independent authority over determining whether the very clear congressional policy has been met.

THE U.S. DEPARTMENT OF JUSTICE SHOULD NOT CONTROL BELL CO. ENTRY INTO NEW LONG DISTANCE

The U.S. Department of Justice is asking that it be given a "decisionmaking" role in the process of reviewing applications for Bell Co. entry into long distance telephone service. A grant of such authority to Justice is unprecedented. It goes far beyond the historical responsibility of Justice, is a significant expansion of the Department's current authority under the MFJ; and raises constitutional questions of due process and separation of powers.

First, assigning a decisionmaking role to Justice is unprecedented.

The Antitrust Division of the U.S. Department of Justice has one duty: to enforce the antitrust laws, primarily the Sherman and the Clayton Acts.

It has never had a decisionmaking role in connection with regulated industries. The Department has always been required to initiate a lawsuit in the event it concluded that the antitrust laws had been violated. It has no power to disapprove transactions or issue orders on its own. While the U.S. district court has used the Department of Justice to review requests for waivers of the MFJ, the Department has no independent decisionmaking authority. That authority remains with the courts.

Second, decisionmaking authority should reside in the agency of expertise.

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In transportation, energy, financial services, and other regulated businesses, Congress has delegated decisionmaking authority for approval of transactions that could have competitive implications with the agency of expertise, and typically has directed the agency to consider factors broader than simply the impact upon competition in making its determinations. This approach has worked well. It contrasts with the role Justice seeks with regard to telephony.

Third, assigning a decisionmaking role to Justice establishes a dangerous precedent that could be expanded to other industries.

Telecommunications is not the only industrial sector to have a specific group of Justice Department Antitrust Division lawyers devoted to examination of its discrete competitive issues and market structure. The Antitrust Division has a Transportation, Energy and Agriculture Section, a Computers and Finance Section, a Foreign Commerce Section, and a Professions and Intellectual Property Section. The size of the staff devoted to some of these sections is roughly equivalent to that devoted to telecommunications.

If the Department has special expertise in telecommunications such that it should be given a decisionmaking role in the regulatory process, does it not also have special expertise in other fields as well? Today's computer, financial services, transportation, energy and telecommunications industries are far too complex, and too important to our nation's economy, to elevate antitrust policy above all other considerations in regulatory decisions.

Fourth, the Justice Department proposal raises constitutional questions of due process and separation of powers by failing to define an appeals process or an appropriate standard of review for agency determinations.

The Justice Department, in requesting a decisionmaking role in reviewing Bell Co. applications for entry into long distance telephone service, seeks to assume for itself the role currently performed by U.S. District Judge Harold Greene. They want to keep on doing things the way they are but they are going to replace Judge Greene with themselves, unnecessarily so. It does so without defining by whom or under what standards its actions should be reviewed. Typically, as a prosecutorial law enforcement agency, actions by the Department of Justice have largely been free of judicial review. In this case, the Department also seeks a decisionmaking role. As a decisionmaker, would the Antitrust Division's determinations be subject to the procedural protections and administrative due process safeguards of the Administrative Procedure Act? What does this do to the Department's ability to function as a prosecutorial agency? Should one agency be both prosecutor and tribunal?

Congress should reject the idea of giving the Justice Department a decisionmaking role in reviewing Bell Co. applications to enter the long distance telephone business. It is bad policy, bad procedure, and bad precedent.

DOJ IS THE PROBLEM, NOT THE ENTRY STANDARD FOR THE RBOC'S

The Sherman and Clayton Acts give the Justice Department ample authority to assure the RBOC's comply with the antitrust laws as they enter the long-distance business.

I think those two acts, the Sherman and Clayton standards, have come to be known as very good standards. They are under the Justice Department's legitimate role.

The Justice Department has never had a decisionmaking role in connection with regulated industries, or any other industry. The decisionmaking role should reside in the FCC: the agency with the regulatory expertise.

The issue centers around the way the Justice Department administers its current responsibility under the MFJ and the length of time the Department takes to reach its decisions, not what, if any, standard should be applied to RBOC entry into the long distance business.

The Department has consistently interpreted section VIII C of the MFJ to mean there must be actual and demonstrable competition, when in fact the section only requires that the entity entering a market not have the "substantial possibility that it could use its monopoly power to impede competition."

The Justice Department has been unable to loosen its grip on the reins of regulation, nor handle issues in a timely fashion. In 1984 the average age of pending waivers was two months. In 1993, the average age of pending waivers was 3 years.

The Department of Justice has one duty: to enforce the antitrust laws. It should not be allowed to become the police officer, judge, and jury for the telecommunications industry.

So, Mr. President, in summary and in conclusion, let me say to my colleagues that we have worked out a bipartisan bill in the Commerce Committee. All Democrats voted for it and two Republicans voted against, and all the other Republicans voted for it in the committee. It is a carefully crafted bill that would be deregulatory yet would protect the public interest and the taxpayers. In that bill we set the standard. We are trying to get everybody into everybody else's business. We are trying to break up the economic apartheid. We are trying to encourage small business entry.

If we can pass this bill, it will be like the gun going off in the Oklahoma land rush because investors and consumers and entrepreneurs will have a road map to take us into the wireless age.

This is a transitional bill, as I see it. If we add another layer of regulation on this bill, if we add the Department of Justice doing the same thing the FCC is doing, then we are merely adding another 3 to 5 years to any decisions. The Justice Department just does not move very fast. We would be giving to the Justice Department, which is supposed to interpret the Sherman and Clayton Acts, a regulatory role. I know there are about 200 lawyers over there in Justice who have been carrying out Judge Greene's orders. They are Judge Greene's attorneys. That is because Congress failed to act.

I am not criticizing Judge Greene. I am not criticizing those attorneys. But in S. 652 we have set up a system and a process that is very fair. There is the competitive checklist, and the FCC can use the public interest standard. The public interest issue was voted on today in this body. We have tried to work these things out.

I know there is a great nervousness between the long distance companies and the regional Bells. But we have reached a balance. These amendments would throw that balance off. But worse, they would disserve the public because the public wants lower cost telephones and lower cost cable rates. They are getting, in this amendment, more regulations, more delays. There would be more delays in developing new devices.

The cellular phone was invented in the late fifties. But because of Government regulation, we did not really see much of them until about 1985. Then the cellular phones came onto the market without much regulation. Now the price is coming down, and more and more people are buying them. Still, it took 40 years because of Government regulation.

That is what this amendment is about. This amendment is for more Government regulation. We need to be deregulators. We need to be procompetitive.

This is a very important amendment. I urge that we vote this amendment down, the underlying amendment, and any second-degree amendment, because this goes to the very heart of the debate in the Senate tonight. It is deregulation. We go on and on with layers of people to approve things going from one agency to another to another to another. We go on and on asking people to wait 3 to 5 years. We have people in the Justice Department who want to oversee the writing of yellow pages in telephone books. They are supposed to be interpreting the Sherman and Clayton antitrust acts. That is what the Justice Department is for. The FCC has another role.

I urge when we come to this that we vote it down. It is a very regulatory amendment.

I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Could I just yield momentarily? I think the Senator from North Dakota has an amendment of clarification to his amendment.

AMENDMENT NO. 1284, AS MODIFIED

Mr. DORGAN. Mr. President, I send a modification to my amendment to the

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desk, and I might tell the Senate the modification is to form only, not to substance. And I ask the modification be accepted.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 1264), as modified, is as follows:

On page 82, line 23, beginning with the word "after", delete all that follows through page 91, line 25, and insert the following:

"to the extent approved by the Commission and the Attorney General".

"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 company is authorized to provide interLATA services in a telephone exchange "area where that company is the dominant provider of wireline telephone exchange service or exchange access service,", a telecommunications carrier may not jointly market 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 and Attorney General for authorization notwithstanding the Modification of Final Judgment to provide interLATA telecommunications service originating in any area where such Bell operating company is the dominant provider of wireline telephone exchange service or exchange access service. The application shall describe with particularity the nature and scope of the activity and of each product market or service market, and each geographic market for which authorization is sought.

"(2) DETERMINATION BY COMMISSION.—

"(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.

"(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.

"(C) 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) DETERMINATION BY ATTORNEY GENERAL.—

"(A) DETERMINATION.—Not later than 90 days after receiving an application made under paragraph (1), the Attorney General shall issue a written determination with respect to the authorization for which a Bell operating company or its subsidiary or affiliate has applied. In making such determination, the Attorney General shall review the whole record.

"(B) APPROVAL.—The Attorney General shall approve the authorization requested in any application submitted under paragraph (1) only to the extent that the Attorney General finds that there is no substantial possibility that such company or its subsidiaries or its affiliates could use monopoly power in a telephone exchange or exchange access service market to impede competition in the interLATA telecommunications service market such company or its subsidiary or affiliate seeks to enter. The Attorney General shall deny the remainder of the requested authorization."

"(C) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (4), the Attorney General shall publish the determination in the Federal Register."

"(4) JUDICIAL REVIEW.—

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

"(B) JUDGMENT.—

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

"(ii) A judgment—

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

"(II) reversing any part of the determination that denies all or part of the requested authorization, shall describe with particularity the nature and scope of the activity, and

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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 * * *".

Mr. HOLLINGS. Mr. President, I am probably a good witness to settle this case because much of what has been referred to is what we did last year and the year before.

As the Clinton administration came to office, we had the original hearing. I remember it well. Secretary Brown of Commerce appeared. He asked for the Department of Justice. I cross-examined him very thoroughly on that because what we were trying to do was deregulate, what we were trying to do is sort of give us the term in the market, one-stop shopping. And if there were any inadequacies in the administrative body, namely the Federal Communications Commission, it was incumbent on me, I felt, as a Senator to make sure those inadequacies were considered. I felt the administration felt very, very strongly about this. And what you do in Government in the art of the possible is you get a bill.

So while I really wanted to have the one-stop shopping, I went along with the majority vote overwhelmingly as has been referred to. We had an 18 to 2 vote, and that kind of thing.

We had the Bell companies, the Senator from North Dakota is quite correct, reading the 8(c) test that is a part of his amendment, and the amendment, of course, of the distinguished senior colleague of mine from South Carolina, Senator THURMOND, is whether or not it will substantially lessen competition. One is the no substantial possibility to use monopoly power to impede competition. That is once competition has already ensued. The Dorgan amendment.

The Thurmond amendment is to the effect of reviewing ahead of time a merger, for example, to see whether it would substantially lessen competition.

We begin with the fundamental that to monopolize trade is a felony, and these communications people are not criminals—not yet, in any event, and they do not belong in the Justice Department unless they violate the law.

So looking at the majority vote in the art of the possible in getting a good communications bill passed, I was very careful.

Number one, if all the colleagues would turn to page 8, I think it is, of S. 652, and you look down starting at line 20, section 7, "Effect on other law." I read this simple line:

Except as provided in subsections (b) and (c)—

which have to do with the MFJ and the GTE consent decrees—

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.

So let us clear the air. S. 652 says antitrust, keep all your experts; do all your reviews; study all your studies; make all your motions.

How many years does it take? They are so proud: Well, the Justice Department is the one that broke up the AT&T. Well, if they wait for them to break up the next monopoly in a similar fashion, we will all be term limited. Even the senior Senator might not be here. I do not know. It will be long enough, I can tell you that.

So let us get right down to it. The Antitrust Division has its responsibilities under Section 7 of Clayton. It has its responsibility with respect to the Sherman Act, whether any violations are there because that is how they moved with respect to AT&T.

The thrust here is by the long distance crowd to get some more bureaucracy.

That stated it in a line.

Just like my friends, the Bell crowd, wanted to do away with the public trust, this long distance crowd wants to bureaucratize the entire thing like the end of the world is going to happen if you do not have the Justice Department bureaucracy and minions studying, moving, motioning, hearing, and everything else.

I graduated from law school. I had a colleague I think who joined the Louisiana land case down there. Like the Georgia Pacific, they had the Louisiana pulp and paper case. It was a long —well, 13 years later, under the fees he got, he was retired down in Florida. And I always regretted that I went to trying cases in my hometown and did not get connected up with one of those rich antitrust motions.

We are all spoiled. You have a wonderful Assistant Attorney General in charge of the Antitrust Division, Ms. Anne Bingaman, who has done an outstanding job with respect, for example, to the Microsoft case and engineering the Ameritech consent decree. You have a wonderful set of facts there where they were all petitioning and joining in. They were not enjoining. They were not motioning to estop. They were not appealing. And they were not getting clarifications and everything else, all these other motions that can be made under antitrust with findings and what have you.

This was already under the Department of Justice consent decree, the MFJ consent decree whereby they could come in and motion the judge and agree on a limited market that was outlined, and you did not have to go into the regular antitrust bureaucracy and ritual that takes years on end, which they have already put in the Record, fortunately, for me.

The Senator from North Dakota talked about starting with President Nixon, President Ford, President Carter, and then finally under President Reagan. So there is a strong feeling here that we tried to simplify as much as possible this proceeding.

And under the amendment of the Senator from North Dakota about the 8(c) test, no one knows it better than I because I did cite those letters and understanding and everything else of that kind. Because of the way 1822 was drafted year before last, it had actual and demonstrable competition. That just threw everything into the fan, and before I could get around and explain anything to the colleagues and everything else what we were trying to do, they just had a mindset that the chairman of the Commerce Committee was off on a toot and a little mixed up and it was not going to go anywhere. I had to agree with them; I was not going to go anywhere. So we sat down and over a 2-year period, meeting every Friday with all the Bell companies, and meeting every Tuesday morning with all of the long distance companies and the other long distance competitors in there, we then started spelling out as best we could that checklist of what actual and demonstrable competition would encompass. So we spell this out dutifully.

I wish to read that to you because I wish to show you what actual and demonstrable, what 8(c) is. The idea is that we have disregarded the admonition that there be no substantial possibility of using monopoly power to impede competition.

Well, how do you determine that? You determine that best by making a checklist of the unbundling, of the local exchange, the interconnection after it is unbundled. You get the dial parity. You set up a separate subsidiary and all the other particular items listed.

I have a wonderful group here that is very familiar with the bill. They know how exactly to turn to the page and section so I can read it to you. But while they search for it, which is very difficult to find, what we did is we dutifully spelled out the 8(c) test, which is the amendment of the Senator from North Dakota, and thereupon put in the bill itself, which, again I think, is on page 89. Understand, we had not disregarded actual and demonstrable competition. On page 16, line 10:

(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 software to the extent defined in the 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 carrier's 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 and quality to and offered at a price no higher than that provided by the local exchange carrier to itself or to any subsidiary,

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affiliate, or any other party to which the carrier provides interconnection;

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

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

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

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

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

(7) telecommunications services and network functions of the local exchange carrier to be available—

AMENDMENT NO. 1265, AS MODIFIED

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

The PRESIDING OFFICER. The amendment will be so modified.

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

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

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

SUBTITLE B—TERMINATION OF MODIFICATION OF FINAL JUDGMENT

SEC. 231. REMOVAL OF LONG DISTANCE RESTRICTIONS.

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

"SEC. 255. INTEREXCHANGE TELECOMMUNICATIONS SERVICES.

"(a) IN GENERAL.—Notwithstanding any restriction or obligation imposed before the date of enactment of the Telecommunications Act of 1996 under section II(D) of the Modification of Final Judgment, a Bell operating company, that meets the requirements of this section may provide—

"(1) interLATA telecommunications services originating in any region in which it is the dominant provider of wireline telephone exchange service or exchange access service to the extent approved by the Commission and the Attorney General of the United States, in accordance with the provisions of subsection (c);

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

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

"(b) SPECIFIC INTERLATA INTERCONNECTION REQUIREMENTS.—

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

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

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

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

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

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

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

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

"(G) Nondiscriminatory access to—

"(i) 911 and E911 services;

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

"(iii) operator call completion services.

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

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

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

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

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

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

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

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

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

"(3) JOINT MARKETING OF LOCAL AND LONG DISTANCE SERVICES.—Until a Bell operating company is authorized to provide interLATA services in a telephone exchange "area where that company is the dominant provider of wireline telephone exchange service or exchange access service," a telecommunications carrier may not jointly market telephone exchange service in such telephone exchange area purchased from such company with interLATA services offered by that telecommunications carrier.

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

"(c) IN-REGION SERVICES.—

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

"(2) DETERMINATION BY COMMISSION AND ATTORNEY GENERAL.—

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

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

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

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

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

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

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

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

"(4) JUDICIAL REVIEW.—

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

"(B) JUDGMENT.—

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

"(ii) A judgment—

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

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

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

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

"(A) SEPARATE AFFILIATE; SAFEGUARDS.—Other than interLATA services au-".

AMENDMENT NO. 1294, AS MODIFIED

Mr. HOLLINGS. I thank the distinguished Senator.

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

(A) of services included—

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

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

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

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

Here is how that reads:

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

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

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

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

The Commission, after doing all of that, has at its hand a duty affirmatively—you are talking about affirmative action in Washington these days. The affirmative action imposed upon the Federal Communications Commission is found on page 89 where the "Commission shall consult with the Attorney General regarding the application. In consulting with the Commission under this subparagraph, the Attorney General may apply any appropriate standard."

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

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

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

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

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

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

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the applicability of any add antitrust law."

Now, why do we have these amendments? The long distance crowd are wonderful people. I have been working with them, and I have been working with the Bell companies. We all say that everybody has to get together and we have to get this bill passed. We have to do it in a bipartisan fashion. It is incumbent on this Senator's judgment here at this particular time that this is far and away the best approach.

So I support our distinguished chairman here in his S. 652, to eliminate the direct hearing process, and everything else, of going first to one department of Government and after you get through with that department of Government, come down over to the next department of Government, and then go through all of that list of things that I have listed down there and expect to get anything done.

We are trying to get one-stop shopping here. There is no reason other than, yes, if you get a violator, and if you get a violator with all of this klieg light of attention being given to communications and the responsibilities to the FCC and the experts they are going to have to hire. They have already made $7 billion for us this year with auctions. So there is no shortage of money at the FCC.

We have to make sure we have the Federal Communications Commission's appropriations in our subcommittee of appropriations, and we are going to provide a very outstanding staff, because we want to facilitate. We do not want the FCC coming back and saying we are overwhelmed and we cannot possibly get it out and we cannot do this and that. Temporarily, for 2, 3 years, sitting down and promulgating all of the rules, entertaining all of the petitions and what have you, there is going to be a plethora of legal proceedings looking at both the 8(c) tests and section 7 of the Clayton Act, and all other measures with respect to trying to open up and make sure that on the one hand there is competition, and on the other hand that any present monopoly power is not used to impede that competition. I do not know how you can get it done any better than that.

This amendment would really just formalize both things constituting a requirement to get the lawyers and go up and go through one and go through the other, where these two can really communicate, not only by phone—communications, that is—but they can send a letter and give a formal opinion, and everything else like that, and you can bet your boots that the Federal Communications Commission is not going to disregard the advice of that Attorney General if it is a strong showing in its opinion that there is some substantial possibility of impeding competition, or that it lessens substantially competition.

No FCC is going to get by with that. That appeal will go up, and the order would not go anywhere before it would be appealed up and probably set aside, because then it would have one division of the Government against the other division.

We have smoothed it out and streamlined it. We have cut out the bureaucracy, and yet, we have had every particular safeguard that you can imagine, that the lawyers could think of that is in here, to make sure that it works and works properly for the public interest.

I yield the floor.

Mr. KERREY. Well, I must say, Mr. President, I rise with some trepidation. The distinguished Senator from South Carolina has made a very impressive legal case as to why the language in the bill, as it is written, is satisfactory and the distinguished Senator from South Dakota, prior to him, laid out a number of reasons why the amendment offered by the Senator from North Dakota is wrong.

I say to my colleagues that I do not come here representing the long distance companies or any other companies. I come here representing the consumers, first of Nebraska, and then of the United States of America. And I hear in the arguments offered here that, first of all, this would be an unprecedented thing for the Justice Department to do. Well, if it is our fear of breaking precedent that is the problem with this amendment, then we should not enact this legislation. This legislation is unprecedented, is it not?

I ask the distinguished Senator from South Dakota, is this legislation not itself unprecedented? Has the Congress of the United States of America ever considered a law that would take such a substantially regulated monopoly with such size and move it into a competitive environment? When have we done this before, of this size and magnitude?

Mr. HOLLINGS. If the Senator will yield. AT&T.

Mr. KERREY. The AT&T divestiture was done by the Department of Justice, not the Congress.

Mr. HOLLINGS. It took 10 years. We do not want to do that.

Mr. KERREY. My point here is, to say that what we are asking for with this amendment is unprecedented leads me to the question, is this legislation itself not unprecedented? Is not what Congress is considering with S. 652 unprecedented? I do not come to the floor and say let us not do S. 652 because it is unprecedented. I understand it is unprecedented. We are in unchartered waters. We have not done this before.

Mr. PRESSLER. Will my friend yield?

Mr. KERREY. I yield.

Mr. PRESSLER. We are in unchartered waters in the sense that already the Department of Justice is running an industry, so to speak. That is without precedent in terms of Judge Greene's order, which I think was necessary, because Congress did not do its duty. Congress is now doing its duty or trying to in this bill.

Mr. KERREY. The Senator is saying that the Congress, the fact that we had divestiture of AT&T in 1985 was the failure of the U.S. Congress?

Mr. PRESSLER. In part, yes. The Congress should have acted.

Mr. KERREY. Mr. President, I ask the Senator from South Dakota what would he propose Congress do?

Mr. PRESSLER. Congress has been paralyzed and unable to make telecommunications policy because there are so many people in telecommunications who can checkmate the decision: So as telecommunications was modernizing, the Congress was not reacting, and the pressure built up to the point that Judge Greene made the decision that he did.

Mr. HOLLINGS. Will the Senator yield?

Mr. KERREY. Pleased to yield.

Mr. HOLLINGS. We had 10 years of hearings, John Pastore of Rhode Island was chairman of the subcommittee, and in the late 1960's and all the way through the entire 1970's we had hearings.

I got a nice compliment from Judge Greene. Minority opinions that we put in the committee reports, after all of our hearings, trying to break up AT&T. Congress was trying to do it because there were 12 orders that were made by the Federal Communications Commission, but they, AT&T, was so legally powerful that they had each of the 12 orders into some legal snarl of one kind or another, whereby none of the orders were enforceable. They could not get anything done, and we could not deregulate.

That is why they were accelerating the particular antitrust proceedings. Congress was unable to act. I am a witness to that because I served on that subcommittee and went to hearings ad nauseam, trying to do it, and we make up the reports and everything else. Finally, it had to be done by the Justice Department.

It is just like the Senate passing different bills. We tried during the 1980's to take this from Judge Greene and put it back into the FCC and got nowhere. We had the manufacturing bill pass by 74 votes—bipartisan in the Senate. It got blocked over on the House side.

Every time we turned and tried at the congressional level we failed. Now we are about to succeed, I think, and I am confident we have the support of the distinguished Senator from Nebraska.

Mr. KERREY. I will stipulate that I agree that Congress failed in not being able to resolve the various conflicts and pass legislation to break up AT&T in the 1980's and come up with a legislative solution.

A failure of the Reagan administration, as well, not to be able to exercise sufficient leadership. I stipulate here on the floor tonight that it was a failure of the Reagan administration, a failure of the U.S. Senate in the 1980's, and a failure of the United States House of Representatives to be able to get this job done.

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Is that a fair stipulation? Am I expressing something with which the Senator from South Dakota would disagree?

Mr. PRESSLER. Would my friend yield?

Mr. KERREY. I yield.

Mr. PRESSLER. I am not trying to score debate points, but in part, it was a failure of everyone and previous Congresses and administrations to tackle the difficult problem we were trying to tackle.

I am not putting anybody down. This bill has been worked on by many Senators, and the Senator from South Carolina has shown great courage. His speech was one of the great speeches that I have heard in the Senate.

I would say to my good friend from Nebraska, may I ask a question: Is there any other precedent, is there any other industry that has been taken over by the Justice Department and regulated and run as Judge Greene's decree did? Is not that unprecedented?

Mr. KERREY. Absolutely is.

Is there any situation, Senator, where governmental entity has produced so much good? Is there? Tell me the bad things that have happened since the consent decree was filed.

Mr. PRESSLER. Well, I would have supported the concept of a consent decree.

I think we have reached a point where Congress should take back its rightful role. I think that Judge Greene probably would say that. I have not met him. I would love to meet him some day, because he is one of the great people in American history in terms of what he has done. An industrial reconstruction that is bigger than any in history.

I always tell students when I give speeches in my State of South Dakota, if they want to influence public policy, they should become a journalist or Federal judge first, if they really want to have sweeping affects. I cite Judge Greene as an example.

But if I may say so, we are sort of debating the chicken and the egg.

Mr. KERREY. It is not the chicken and the egg.

Mr. PRESSLER. We have a situation that I think we have the responsibility to act.

Mr. KERREY. If Congress did it in 1985, they could not have done it as well as the Department of Justice. The regional Bell companies at the time of the filing of the consent decree object to restrictions placed on them on manufacturing, on services, and they objected because they wanted to get into all the things.

The consent decree said we will have competition. It said we will move from a monopoly to competition.

This is the agency of the government that has enabled us to do that. The U.S. Department of Justice has done it. That is what I see. I see them as an agency that has produced competition, in an unprecedented time, once before, and now in another unprecedented time.

In my judgment, we need them not to produce duplication, not to produce a duplicative process. It is a parallel process. Do you not go to one agency and then to another. I tend to walk through, as I see, the process.

I feel odd arguing, because in S. 1822 last year, we had all this pretty well settled. Last year's legislation came out with a 18-2 margin. I believe, basically, that did what the Dorgan amendment is now asking for.

I point out, as well, one of the statements that was made here that this thing could drag on a long, long time.

Well, the amendment tends to deal with that. I point out to my colleagues that there is a determination, a process, that says that the Attorney General, not later than 30 days after receiving an application, shall issue a written determination. There is a time certain in here of the 90 days.

Now, maybe 90 days is too long. Maybe it ought to be somewhat shorter. There is an attempt made here not to lengthen the process. Indeed, I believe very strongly that the law as it is written without this amendment is an invitation for lengthy litigation.

But most importantly, Mr. President, my fear with this, and it is a sincerely based fear, I do not come here pulling for the long distance companies, or represent one interest or another.

I come many times in this debate to say this: We are going to vote on this in final passage some time in the next year. We will have a vote on final passage.

Members need to understand that they will be held accountable for that vote. Who will hold them accountable? Who will say, "You cast the right vote." In the early difficult days, it will be the companies who have taken an interest. It will be the corporations that have been in town talking to Senators, day in and day out since the committee began its work in the early part of this year, and since the committee started its work last year. The companies that have been in town saying "We like this provision, we don't like this provision," all the delicate balance that has been referenced. Either get a pat on the back, or a wave, or some smaller number of fingers directed in your direction.

I urge my colleagues to understand that the much more important test of whether or not this piece of legislation is going to be something Senators are either proud of, or for the rest of your political career—perhaps shortened by this vote—Senators are explaining why they thought it would do something else.

This piece of legislation either produces lower prices and higher quality to 100 million residential users of information services from 9 basic industries, or anybody that votes "aye" on this thing has a lot of trouble.

I do not care what AT&T says. I do not care what the RBOC says. I do not care what the cable companies say or the broadcast people say, or anybody else says. Out in that hallway or in your office or through the mailbox or through E mail or any other kind of communication, they may tell Senators they are doing the right thing, but the real test is going to come a year from now, 2 years from now, 3 years from now when this rubber begins to meet the road.

The question then will be, what do the consumers say? What do the citizens say? Dare I mention it, what do the voters say, who have not asked for this piece of legislation?

I say now for the 8th or 9th or 10th time, this is not something that has been driven by town hall meetings. This is not on talk radio. This is not something that is coming as a part of the Contract With America. No one has polled this. No one has reached out and said, we will do focus groups and find out what is going on here. This is being driven by legitimate corporations with a sincere desire to do something that current law says they cannot do.

So we are trying to do something that is unprecedented— unprecedented to take a large sector of our economy and move it from a monopoly status into a competitive environment.

And if we only worry about whether or not the existing corporations are going to be able to get what they want, in my judgment, not only would the consumers be unhappy, because they do not get the competitive choice they need. In my judgment, as well, all the promises of jobs we are talking about all the time, are not going to be fulfilled. Because, rest assured, when jobs are created they are going to be created by companies that do not even exist today. New entries, like we saw with Microsoft, new entries like we saw with Intel—we are going to see new entries that are going to be creating the jobs of tomorrow. And, unless this legislation permits, with no reservations, competition at the local level, it is unlikely that either the consumers of the United States of America, or those people in America who are trying to find jobs, are going to be terribly happy with the product.

I am going to go down a few things I have heard said here this evening. I do not know how much longer I will talk. I will talk a while. We are going to come back in tomorrow and have plenty of time to go through some additional matters. Let me go through some of the things that were referenced.

I have heard it said this is more regulation and more delay. I am prepared to argue and present it is not. I am prepared to argue in fact that the existing legislation, unless it is changed by the Dorgan amendment, is going to be more regulation and more delay.

I have heard it said the Department of Justice is going to take on legions of new employees. It is not true. Indeed, the much more likely possibility is it will be the FCC that has to take on legions of new employees because they are not used to doing this kind of work.

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It is much more likely that the plethora of applications that come the FCC's way is going to produce an increase in that bureaucracy and not an increase in the Department of Justice.

I have heard it said, and I referenced it earlier, this is going to create duplication. It is not. It is a concurrent process, a simultaneous process of application. The FCC does the work it is supposed to do. The Department of Justice does the work it is supposed to do. There is not an overlapping of permit requirement here. One agency has one responsibility; another has another responsibility. There is a time certain, as I indicated already in the amendment.

In my judgment we have made an effort with this amendment to try to take into account the concerns that people have. Are we going to have more regulation? Is this going to create duplication? Is this going to mean more paperwork and delay? It will not mean more of any of those things. It will mean less.

I have heard it said, as I indicated earlier, that this is an unprecedented intrusion by the Department of Justice into an industry. Mr. President, this whole venture is unprecedented. I hope colleagues understand that. It is an unprecedented action. It is an unprecedented bipartisan action, and I trust and hope this amendment will become an unprecedented bipartisan action as well, because, unless we improve this legislation with this change, those who vote "yes" on this bill, I believe sincerely and genuinely, will regret having done so.

Mr. President, I hear that this is a dangerous precedent.

Mr. PRESSLER. I am sorry. I have the example, if the Senator will yield, that he asked for earlier.

Mr. HOLLINGS. If the Senator will yield, what we have, I say to the distinguished Senator, is the minority leader's amendment. When we called up the bill we put in the majority leader's amendment. We did not have a opportunity to put in the minority leader's, and we wanted to print it in the RECORD so the Members could read it.

Will Senator temporarily yield?

Mr. KERREY. I will.

Mr. HOLLINGS. Mr. President, I ask unanimous consent the pending amendment be set aside so I may send an amendment to the desk on behalf of myself and the Democratic leader, Senator DASCHLE.

Without objection, it is so ordered.

AMENDMENT NO. 1266

(Purpose: To clarify the requirements a Bell operating company must satisfy before being permitted to offer long distance services, and for other purposes)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself and Mr. DASCHLE, proposes an amendment numbered 1266.

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

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

The amendment is as follows:

On page 53, after line 25, insert the following:

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

(a) IN GENERAL.—To promote nondiscriminatory access to telecommunications networks by the broadcast 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

(20 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 standard-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.

On page 66, line 13, strike the closing quotation marks and the second period.

On page 66, between lines 13 and 14, insert the following:

"(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 operators 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 places or territories that—

"(i) 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 of 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), (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 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.".

On page 70, line 7, strike "services," and insert "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,".

On page 70, line 21, strike "area." and insert "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.".

On page 79, before line 12, insert the following:

(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.

On page 88, line 4, strike "area," and insert "area or until 36 months have passed since the enactment of the Telecommunications Act of 1995, whichever is earlier,".

On page 88, line 5, after "carrier" insert "that serves greater than 5 percent of the nation's resubscribed access lines".

Mr. HOLLINGS. I thank the distinguished Senator from Nebraska for allowing us to do that. This will have

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printed in the RECORD, now, this particular amendment, for the colleagues.

AMENDMENT NO. 1294, AS MODIFIED AND AMENDMENT NO. 1295, AS MODIFIED

Mr. KERREY. Mr. President, let me go through a few more things here. I appreciate that. I have only a few things.

Mr. PRESSLER. Will my friend yield? This is a fascinating dialog for me. I am not in any way trying to one-up or anything. But in the early 1980's both AT&T and IBM were in the Justice Department with big lawsuits against them. And on the same day, January 8, 1982, the Federal Government chose two different destinies for those mammoth companies.

It is my contention that, had we done with AT&T then what we are trying to do now, that is broken up the monopoly by requiring them to unbundle and interconnect and allow competition—in any event the computer industry went the other way. The computer industry—it is true there are winners and losers. It is true IBM has had problems and had spinoffs. But the computer industry, in terms of service to the American people, and dropping costs, moved forward much faster. In fact, there is a chart here that, had the telecommunications industry moved forward in competition as much as IBM in the computer area, the cost of telephones today would be about a fifth what they are, because the innovation and the competition, reduction in costs was much greater in the computer industry.

So the Justice Department on the same day in 1982 sent the two industries on two different paths. They did that with AT&T because Congress had failed to act. We failed to do then what we are trying to do now, that is open up access, provide interconnection and unbundling to provide competition. And we would have had much more innovation in the telecommunications area, if you compare the two industries.

Mr. KERREY. I say to the Senator from South Dakota, had we done that, had we tried to follow the model of IBM, we would have had to do a number of other things. We would have had to say there is no public purpose in having universal service to all Americans.

Mr. PRESSLER. I am not talking about IBM, I am talking about the computer industry. I am talking about the computer industry.

Mr. KERREY. But AT&T and IBM are wholly different cases. IBM is a company that manufactured hardware and software for the consumer and business industry. There is no public purpose there, in saying we have to make sure every single American household has a computer. Whereas AT&T was a monopoly created with the 1934 Communications Act, with a franchise and a specific instructions to achieve universal service for all Americans.

So, in the one case——

Mr. PRESSLER. If my friend will yield, I am talking about the computer industry, the competitiveness that is in it. It has been far more innovative than the telecommunications areas. I know the two companies are different. I am not just talking about IBM. It has been replaced—there have been all those things that have happened; Intel, Apple, and all sorts of things. I could go through them.

But a comparison of the two technologies, how they have progressed—compare the computer area to telecommunications, you would find that today a telephone call would be only a few cents, if it had advanced as much as the reduction in cost of personal computers. My friend asked for an example. That is an example.

But, in 1982, what the Congress should have been doing——

Mr. KERREY. I ask my friend from South Dakota, does he think it would have cost a couple of cents in Rapid City, SD?

Mr. PRESSLER. Personal computers cost much, much less in Rapid City.

Mr. KERREY. If we had taken the IBM track in 1984, does the Senator think it would have cost a couple of cents for phone service in South Dakota? I do not think so.

Mr. PRESSLER. Personal computers cost much less in South Dakota than they would otherwise. You can argue this thing circuitously. You might have innovations. In the computer area there are so many innovations. We may have had telecommunications innovations that we have not had. You cannot argue this perfectly.

But there is probably no part of American industry that has had more innovation and competition than the computer industry, and people in Rapid City, SD, can buy personal computers at a fraction of the cost, and they are much more advanced than they would have been had the Justice Department gone the other way.

Mr. KERREY. The point in fact is the Justice Department put the pressure on IBM, caused IBM to spin off two relatively insignificant, at the time, inventions. One was——

Mr. PRESSLER. I am talking about the computer.

Mr. KERREY. The Department of Justice had a very constructive impact on IBM and on the U.S. economy. They had them spin off a couple of little things. One was an operating system called MS-DOS. And a couple of guys, high school or college dropouts up in Seattle, they built Microsoft. And Intel was the second company that got spun off, because the Department of Justice said we have a monopoly here. It is unacceptable.

You are going to control too much of the economy. We are going to require some action. I understand you are using an example. I find the example difficult frankly on two grounds: One, in the case of IBM, you are dealing with a company that is different than AT&T. AT&T is a licensed monopoly by law created as a monopoly. The question is how do you go from that monopoly to something you now want to become a competitive industry?

That is what I find most remarkable about the objection to this amendment—that if you are looking for a Federal agency with experience taking a monopoly situation to a competitive situation, why in heaven's name would we not go to the Department of Justice that has the most experience doing it and the most successful experience doing it? They have the track record. They have the personnel. Tell me where the FCC was in all of this. Describe to me the FCC's role either in IBM or in AT&T in a transition from monopoly to competition.

Mr. PRESSLER. If my colleague will yield again, I am talking not specifically about IBM. But I am talking about the direction the computer industry took. AT&T was a Government monopoly. But my argument is that if we had done what we are trying to do in this bill—that is, require them to unbundle and interconnect, to allow for local competition, allow people to have access locally as this bill does, the whole telephone communication industry might be much more innovative today than it is.

Mr. KERREY. I hear that. But one of the reasons Congress did not do that was when you get right down to it, it is difficult for us to say to a company you have to be competitive.

I say to my friend from South Dakota that when the Cohen amendment came up earlier we were on the opposite sides of that issue. The Cohen amendment said we are going to take the set-top box industry and allow it to develop in a competitive fashion. There were concerns from smaller cable operators that it could result in some hardship to them. It could result in some problems for them. I understand. I think it is very difficult for the U.S. Congress to take a position to say to any industry that we are going to require you to go from a situation where you are not competitive, where you have been given Government protection of some kind, and in this particular case it is the telephone industry, given a franchise, given protective status, protected from competition, we are trying to figure out how to protect them from that protected status to a competitive environment, and the only Federal agency in town, in the people's capital in Washington, DC with the experience of having done it is the U.S. Department of Justice is given a consultative role. "Oh, what do you think of this transition, Mr. Department of Justice?"

It seems to me, odd. I do not understand. I understand why the people who are going from a monopoly to a competitive environment oppose this. I understand why they are nervous about it because they saw how effective the Department of Justice was the previous time they did it. They saw how rigorous the Department of Justice was in

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making sure that there was competition.

Mr. PRESSLER. If the Senator will yield, it is not true that if we allow the FCC to set the standard for anything, a Government standard, there is very little room for innovation, for new inventions, for the type of things that have happened in the competitive world. There are some winners and some losers.

But my point about computers is that every 18 months things become virtually obsolete because there is so much competition. There are so many things going on. The average consumer has benefited from all this competition. They can own a personal computer, and the prices are going down and capacity has gone up enormously. Had we had the Government standards we would not have seen that type of innovation.

That is the point I am trying to make.

Mr. KERREY. We are not proposing a Government standard with this amendment, I do not believe. Maybe I misunderstand the amendment of the Senator from North Dakota. I do not believe so. I do not believe we are proposing that. I do not know if the Senator from South Dakota is familiar with it. I suspect the Senator is since he has been inundated with all of this stuff involved in this piece of legislation. There is an issue of interoperability.

I introduced an interoperability bill a month or so ago, and immediately was approached by some people in the private sector who said that if the Government comes in and sets a legal de jure standard, what that does is it inhibits the development of the de facto standards, and I yielded to that argument. Indeed, I do not want the Government to establish in technology with the de jure standard that makes it difficult for the companies to go to the marketplace and say we are going to give what the marketplace wants and after we have given you what you want that becomes the standard, that becomes the new standard. I do not want to inhibit that at all.

What I am concerned about, again I say for my colleagues, I am concerned about that the consumer who will not benefit unless there is competition so rigorous that I can take my business someplace else if I do not like what is being offered either in the way of price or service, not in independent lines of business, not in cable, not in dial tone, not in tech. But if they want to come in and sell it to me all put together for a lower price than I am currently paying, that is where I am going to get innovation and reduction in the cost of my current household information services. I am not going to get it if you preserve out of concern for what the Department of Justice is going to do, if you preserve a line of business differential in some artificial fashion. I think that is what this legislation does unless we get the Department of Justice with a role, an active role.

I mean I am willing to consider any suggestions on what to do, to reduce any potential duplication, overlap. I am willing to consider any suggestions to make sure we shorten the time. We do not want to stretch it out. The idea is do what Justice did in 1984. You go into court. If you get the parties in hand, you write up a memorandum. You get in this case a consent decree. You walk into the judge at a Federal court, and you file it. All parties agree. You do not have litigation afterwards.

You do not have any dispute to tie this thing up for a long time and tragically prevent the very competition that we are trying to see. I hope my colleagues understand that. If this thing is litigated, if I as an owner in a monopoly fashion have the right to deliver information services at the local level, and can tie this thing up in court for a long enough time to prevent that innovation from occurring, it is prevented permanently for the very reason that the Senator from South Dakota said, because innovation only lasts a little while and then it is obsolete.

So I understand this delicate balance. I truly do. The distinguished chairman and the ranking Member have worked so hard on it. I understand that maybe it could all come apart if this amendment is agreed to. Members say, "Oh, my gosh. We settled that in committee. We cannot now take it up again."

I hope that we get some reconsideration of that conclusion. If I am wrong, if I have reached a conclusion because I have myself diagnosed the scene and do not understand what is going on, come and tell me. I am prepared to admit. If I see that incorrectly I have assessed on behalf of consumers and people making certain this legislation does set off some innovation that results in new and higher paying jobs for the people of the United States of America. I do not believe that this is a precedent that we should fear. Indeed, I believe it is a precedent that we should seek based upon the success of having done it once before.

I heard one of the comments here this evening. Well, if the Justice Department has specialized expertise, then maybe we would ask them to do this. It does have specialized expertise. That is precisely the point. It has specialized expertise. Let us define what we want the Justice Department to do based upon that specialized expertise and have the FCC do what it does well, based upon its specialized expertise. And in that kind of a situation, Mr. President, we must be able to come to an agreement on how to make certain that we do not end up with overlap and duplication and a long regulatory process that makes it difficult not just for the RBOC's to get into long distance, but far greater concern for all of us who want to make sure that our vote turns out right, and that consumers end up with lower prices and higher quality service as a consequence.

Mr. President, I really could talk a bit longer. I do not know what the distinguished Senator from South Dakota has in mind for the evening. It looks like there is a shortage here of redblooded American men and women, unfortunately, elected to this great body that want to talk on this wonderful issue.

Mr. PRESSLER. I do not see colleagues nor the Chamber filled with people listening to my words.

But, in very good spirit, I say to my friend from Nebraska, I have worked with him on his interoperability amendment. In fact, we accepted it. But only after insisting that a private standard be set. My understanding is then the Senator's original proposal had a Government standard set.

Mr. KERREY. It had a voluntary Government standard, and I was willing to make changes and make certain that it did not become a rigid Government standard, this is true.

Mr. PRESSLER. I do not care to debate it.

Mr. KERREY. Network and network interoperability.

Mr. PRESSLER. I welcome it and pleased to accept it, and it demonstrates that we are working together.

I have said about all I am going to say today, but I do have some remarks for the leader at the appropriate time.

Mr. KERREY. I will just take a few minutes and conclude for this evening.

The distinguished ranking member went through the 14 part checklist and said that among other things this checklist—for my colleagues who are wondering, this is in section 221. It actually becomes section 255 of the communications act.

This checklist says this is what a Bell operating company, your local telephone company from whom you purchase your telephone service, this is what they have to do in order to be able to provide long distance. That is, they have to do all these things and present that to the FCC. And when they do that and meet one higher test, one additional test, public interest test, then they are allowed to get into long distance.

Now, the idea here is that that 14 part checklist substitutes for meeting a test called no substantial possibility of interfering with demonstrable competition, or some such thing as that. The idea is that this 14 part checklist is all we need to have in order to make certain that we have competition.

Now, the phone companies in their defense are a bit frustrated with all this because they say oh, my gosh, I have this 14 part checklist and now you want me to satisfy the Department of Justice. I want them to have a role in this thing as well. That is too much.

Mr. President, I actually think that in these negotiations we sometimes sort of seize onto something and begin to feel as if it has to be this way and there is no better way. I say to the phone companies, you would be far better off if your interest is getting competition without litigating it, you

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would be far better off with both of these things. You have a checklist. I know exactly what it is you have to do. We have gone through that exercise. We have said that is what you have to do to get into long distance. You present that to the FCC. You go through the process as Justice simultaneous with that and then there is no dispute. There is nobody that can say to you you have not satisfied what is required to make sure there is local competition, and for us in the Congress no risk that we will not have that competition, and it is the biggest risk in this whole deal. Fail to get that competition at the local level and most assuredly regret will come to your mind sometime in the not too distant future.

I am going to just make one last comment and then wrap this up. One last thing that was said was there is a lot of money over at FCC from the auctions. As I understand it, in fact I know it to be the case, that auction money is hardly available if you are going to add staff over at the FCC in order to be able to handle the increased caseload, and there is going to be increased caseload. There is going to be increased pressure upon the FCC. They are going to have to hire new people. They do not have this expertise over there right now. They are going to have to hire at the FCC in order to be able to handle these applications, in order to be able to make those determinations. We are going to have to build what does not exist today in a Federal agency that previously has not had this kind of responsibility. And you are going to have to find an offset in some fashion in order to be able to get the job done, whereas, as I see it anyway, at the Department of Justice we already have those folks on the job.

Mr. President, once again I say I hope that in the procedure of debating this, this will in the end lead to a piece of legislation I am able to enthusiastically support based upon my confidence that this is going to be good for the American consumer, this is going to be good for American workers that are hoping that this country will create more high paying jobs, that this will be good for American citizens who increasingly are dependent upon information in order to do a good job in their schools, to do a good job in their businesses, to do a good job in their operating rooms and various other places where Americans either work or play.

I appreciate the tolerance and the assistance of the distinguished chairman of this committee and the ranking member who has already left.

Mr. President, I yield the floor.

Mr. PRESSLER. Mr. President, if I may commend my friend from Nebraska because I think our discussion has stimulated at least me to think a bit about where we are historically as we conclude this debate this evening.

First of all, it is stimulating in the sense to think if we can find a way to help people have more products available at a lower cost that are useful to them in their lives, we are doing more for them than if we were to give them Government aid. There is a proper role for Government in our society. But it is my strongest feeling that if we can find ways through competition in the free enterprise system that people can have products at a lower price in abundance and innovations we are actually doing more for them frequently than if we give them grants or aid.

For example, let us talk about senior citizens. I am a champion of senior citizens. We deregulated natural gas prices in the 1970's, and I remember I was over in the House of Representatives, and we were struggling with that issue. And people said, if you deregulate natural gas the prices are going to skyrocket and companies are going to gouge everybody. In fact, the prices came down and they have stayed down. If you want to do a senior citizen a favor, you can help the cost of heating their home stay low. You can help the cost of their goods to be lower through competition.

Usually we think of helping senior citizens by giving them more money or spending taxpayers' money, and in some cases that is accurate. But you can also help senior citizens by providing them low cost fuel and low cost natural gas. And that has been done through deregulated natural gas prices.

And I also say that to a lot of people in the United States the innovations that have occurred in the computer industry—true, there have been some winners and losers among the companies, but the fact is that people have lower cost personal computers available today through competition. And we never could have achieved that through Government regulations or Government standards. Indeed, every 18 months there is a complete turnover.

I also serve on the Finance Committee, and the people in the computer area in Silicon Valley would like an 18-month depreciation schedule because their products are obsolete after 18 months. That is because there is so much competition and there is not a Government standard holding them back. The American free enterprise system allows that type of innovation. Every 18 months the old computer is obsolete, and we are moving forward and people are able to buy personal computers at a low cost. That is a service to people much more so than if we had a huge Government agency regulating and setting standards.

I would say that through this bill if we can increase competition and if through this bill we can bring innovation, we will see the same kind of explosion of new devices and investment and services for telecommunications at a lower cost to consumers, just as we have seen in other areas of competition. But we do not have that so long as we have the Justice Department and the FCC running things with Government regulation and Government standards.

Now, also let me say what will happen if we do not pass this bill.

It is tough to pass this bill because different groups have checkmates and the White House has been opposing this bill—though they will not say they will veto it. But I am very sad about this opposition, because if we do not pass this bill, we will be failing again as a Congress to do what we are supposed to do.

Had Congress, before 1982, required AT&T to unbundle and interconnect so they could have competition in the local markets, we would not be here today. We would have had an explosion of new devices in telecommunications, more than we have had. We would have lower costs. There is no reason the cost of long distance calls needs to cost what they do. Consumers should be paying a fourth of what they are paying for local and long distance service, based on what has happened to prices in the computer area.

We are trying to do what we were supposed to do in 1982 in this bill, and we are trying to get this thing together. Yet people come to the floor with more regulatory amendments. This amendment that is before us now to put on the Department of Justice another layer of regulation is going to delay, delay, delay. What if computers and innovation in computers had to go through the Department of Justice? It takes 3 to 5 years for them to respond even to petitions that are routine. Why do we want more regulations?

If we do not pass this bill, we will be failing again. People say, "Well, if we don't pass this bill, we'll get another bill." No, we will not. We are coming into a Presidential election, and it will be over to 1997 and that is 2 more years of innovation and lower prices for the American people lost.

I say to the White House, I find it very odd that the White House is opposing this bill, because they will not say they will veto it. I went over three times to see AL GORE, to get him to lead this movement, because it is everything he says he believes in. It is reinventing, privatizing, all of those things; it is the information highway.

I have been amazed that the White House has not supported this. They will not say they are going to veto it.

Every Democrat on the Commerce Committee voted for this bill. The Democrats in the Senate have been at the forefront of helping us to deregulate and move forward in telecommunications.

I know there have not been very many bipartisan bills that have passed this Senate, and I will not put this on a partisan basis. I would give as much credit to Senator HOLLINGS as to some of the Republican people and Democratic people that have served for years. But here we have a chance to deregulate an industry, to get everybody into everybody else's business. If we slip and fail, this thing will go over to 1997, and then we will start again, I suppose, because we are not going to

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have a major telecommunications reform bill in a Presidential election year.

I have also said that I hope that this bill passes both Houses by the Fourth of July. I hoped it would be signed by the President by the Fourth of July. That was my original goal.

The Senate has moved on a bipartisan basis in an amazingly coordinated way. We had meeting after meeting every night with Democrats and Republicans. We met Saturdays and Sundays, Democrats and Republicans, shoulder to shoulder, to finally get a telecommunications bill. We passed it through the Senate Commerce Committee when people said it could not be passed. It is on the Senate floor.

This is early June. This is one of the most complicated bills here, and it will affect a third of the American economy. It affects every home in America. And I think it is time for the White House to join us. They are opposing this bill. I think it is time for the Consumer Federation of America to join us. I hope NEWT GINGRICH gives this bill an early slot over there because it is very important. It is a bipartisan bill that will create jobs, and it will create the kind of jobs we want in this country.

Right now, a lot of our telecommunications industry is forced to invest overseas because they are prohibited from doing certain things here. Our regional Bells cannot manufacture, they cannot do this, and they cannot do that. So one of my friends in my life, Dick Callahan, for example, president of U.S. West International, is over in London. He is originally from Sioux Falls. He is not in Denver and Sioux Falls investing, he is over in London investing U.S. money in things that the telecommunications companies can do there that they cannot do here. I would rather have the Dick Callahans of this world creating jobs in the United States.

Also, this bill is a modernizing bill. We are losing jobs in some of our aging industries, very frankly. We read every day about how a certain mature industry is laying off people. I recently toured the Caterpillar plants in Peoria, IL, and I saw the difference in the assembly line where the modernized part is, where they turn out 51 engines a day, versus the old part, where they turn out 13 engines a day. They make 51 engines with fewer people.

But those people will need new jobs in new industries, and this bill does that. Everybody should understand that. This is a jobs bill, but it is not a jobs bill through Government, it is a jobs bill through free enterprise. If we are going to do something for people, we provide them more services at a cheaper level, just as with deregulating natural gas. We helped every senior citizen, probably more than we did with the COLA on Social Security, by providing them with a cheap form of fuel to heat their home. And that is what this bill is.

I could go on at great length. But I would like to conclude the debate today by saying I think we have made good progress on this bill. This is a bill that some of the private newsletters said only had a 10 percent chance in January. They said it had a 30 percent chance in April. But I think we are right on the cusp. We have to make progress with this bill. If we do not, we will be failing the American people and we will be failing the creation of a lot of jobs, new kinds of jobs, and we will be having our brightest people going overseas investing our telecommunications capital, as is happening.

Mr. CAMPBELL. Mr. President, I rise today to support the Telecommunications Competition and Deregulation Act of 1995—S. 652.

S. 652 will open telecommunications markets to competition which will benefit consumers and the American economy. It will give America the freedom we need to remain the world's leader in telecommunications, information and computer technology in the 21st century. Keeping this edge will enhance our competitiveness, spur domestic economic growth and job creation, and, most importantly, provide a better quality of life for our citizens.

Mr. President, I want to make sure that these same benefits flow into the educational system and into our classrooms, libraries and hospitals.

The communications revolution is leaving our schools behind. As access to telecommunications technology and information increases across the country, our classrooms are cut off from the information revolution. The National Center for Education Statistics reports that overall, 35 percent of public schools have access to the Internet but only 3 percent of classrooms in public schools are networked. Smaller schools in rural areas are even less likely to be on the Internet than schools with larger enrollment sizes.

Mr. President, I live in a small rural town in Colorado where many schools lack even basic phone lines. I have seen, first-hand, how many rural areas were left unserved and were dependent on the Federal Government to finance cooperatives to bring basic telephone service to rural communities. Schools and libraries in rural Colorado and in rural America cannot afford to be left unserved and kept out of the information revolution.

The Snowe-Rockefeller provision in S. 652 ensures that rural communities and high cost areas have access to communications and information technology. This provision builds on the overall universal service provision in S. 652 and adds the important component of providing schools, libraries and hospitals with affordable access to the Information Superhighway. In my view, it is essential to rural communities to keep this provision in the bill. Otherwise, rural areas will not benefit from technological advances in communications.

There is a growing understanding that technology can have a significant positive impact on teaching and learning and can serve as a means for achieving educations excellence. For example, a computer network connected to the classroom means that every teacher and student has access to the world's greatest libraries. New technologies and tools such as e-mail and the World Wide Web will give schools greater access to text, audio and video-on-demand. Through telecommunications, students and teachers will gain access to significantly greater amounts of information than would otherwise be available.

Teachers could be far more productive and innovative if they had access to new ideas and technologies through computer networks. Studies show productivity increases of as much as 30 percent when teachers are connected to the Information Superhighway. In essence, teachers would be able to exchange lesson plans, get tips from their colleagues, or obtain access to the Library of Congress or the National Archives for teaching materials. In rural areas, students can access information through distance learning programs where information and instruction is exchanged by two-way videos.

There are many exciting technological opportunities available for our schools and libraries across the country. Yet, teachers simply do not have adequate tools to use the resources of the information revolution. Most teachers have not had adequate training to prepare them to use technology effectively in teaching. According to survey data from the National Education Association, an estimated 56 percent of all public school teachers feel they need training to use personal computers adequately in their classes and 72 percent need training in the use of on-line databases.

Technology can even draw parents into the education process. Many parents do not understand how technology filters into the education process, and they do not understand its significance in their children's schooling. However, parents can have access to simple voice-mail technology and can call into a mailbox to find out the homework assignment or information about a class trip. In the future, classroom networks could eventually extend to the home and thereby fulfill what educators say is their biggest unmet need: lengthening the learning day and involving the parents.

Mr. President, all of the Nation's children deserve to be exposed to the best possible education, not just those who live in affluent areas. But, without a national commitment to providing affordable access to these emerging technologies in schools and libraries in rural areas, our Nation will fall far short in preparing all its citizens for the 21st century.

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1260, AS MODIFIED

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

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

The amendment, as modified, is as follows:

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

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

"(1) the Commission submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce of the House of Representatives a report on the contributions, or increase in such contributions, to be imposed; and

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

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

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

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

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

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

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

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1261

(Purpose: To prevent excessive FCC regulatory activities)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

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

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

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

The amendment is as follows:

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

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

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

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

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

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

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

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

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desk, and I might tell the Senate the modification is to form only, not to substance. And I ask the modification be accepted.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 1264), as modified, is as follows:

On page 82, line 23, beginning with the word "after", delete all that follows through page 91, line 25, and insert the following:

"to the extent approved by the Commission and the Attorney General".

"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 company is authorized to provide interLATA services in a telephone exchange "area where that company is the dominant provider of wireline telephone exchange service or exchange access service,", a telecommunications carrier may not jointly market 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 and Attorney General for authorization notwithstanding the Modification of Final Judgment to provide interLATA telecommunications service originating in any area where such Bell operating company is the dominant provider of wireline telephone exchange service or exchange access service. The application shall describe with particularity the nature and scope of the activity and of each product market or service market, and each geographic market for which authorization is sought.

"(2) DETERMINATION BY COMMISSION.—

"(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.

"(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.

"(C) 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) DETERMINATION BY ATTORNEY GENERAL.—

"(A) DETERMINATION.—Not later than 90 days after receiving an application made under paragraph (1), the Attorney General shall issue a written determination with respect to the authorization for which a Bell operating company or its subsidiary or affiliate has applied. In making such determination, the Attorney General shall review the whole record.

"(B) APPROVAL.—The Attorney General shall approve the authorization requested in any application submitted under paragraph (1) only to the extent that the Attorney General finds that there is no substantial possibility that such company or its subsidiaries or its affiliates could use monopoly power in a telephone exchange or exchange access service market to impede competition in the interLATA telecommunications service market such company or its subsidiary or affiliate seeks to enter. The Attorney General shall deny the remainder of the requested authorization."

"(C) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (4), the Attorney General shall publish the determination in the Federal Register."

"(4) JUDICIAL REVIEW.—

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

"(B) JUDGMENT.—

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

"(ii) A judgment—

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

"(II) reversing any part of the determination that denies all or part of the requested authorization, shall describe with particularity the nature and scope of the activity, and

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of each product market or service market, and each genographic 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 * * *".

Mr. HOLLINGS. Mr. President, I am probably a good witness to settle this case because much of what has been referred to is what we did last year and the year before.

As the Clinton administration came to office, we had the original hearing. I remember it well. Secretary Brown of Commerce appeared. He asked for the Department of Justice. I cross-examined him very thoroughly on that because what we were trying to do was deregulate, what we were trying to do is sort of give us the term in the market, one-stop shopping. And if there were any inadequacies in the administrative body, namely the Federal Communications Commission, it was incumbent on me, I felt, as a Senator to make sure those inadequacies were considered. I felt the administration felt very, very strongly about this. And what you do in Government in the art of the possible is you get a bill.

So while I really wanted to have the one-stop shopping, I went along with the majority vote overwhelmingly as has been referred to. We had an 18 to 2 vote, and that kind of thing.

We had the Bell companies, the Senator from North Dakota is quite correct, reading the 8(c) test that is a part of his amendment, and the amendment, of course, of the distinguished senior colleague of mine from South Carolina, Senator THURMOND, is whether or not it will substantially lessen competition. One is the no substantial possibility to use monopoly power to impede competition. That is once competition has already ensued. The Dorgan amendment.

The Thurmond amendment is to the effect of reviewing ahead of time a merger, for example, to see whether it would substantially lessen competition.

We begin with the fundamental that to monopolize trade is a felony, and these communications people are not criminals—not yet, in any event, and they do not belong in the Justice Department unless they violate the law.

So looking at the majority vote in the art of the possible in getting a good communications bill passed, I was very careful.

Number one, if all the colleagues would turn to page 8, I think it is, of S. 652, and you look down starting at line 20, section 7, "Effect on other law," I read this simple line:

Except as provided in subsections (b) and (c)—

which have to do with the MFJ and the GTE consent decrees—,

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.

So let us clear the air. S. 652 says antitrust, keep all your experts; do all your reviews; study all your studies; make all your motions.

How many years does it take? They are so proud: Well, the Justice Department is the one that broke up the AT&T. Well, if they wait for them to break up the next monopoly in a similar fashion, we will all be term limited. Even the senior Senator might not be here. I do not know. It will be long enough, I can tell you that.

So let us get right down to it. The Antitrust Division has its responsibilities under Section 7 of Clayton. It has its responsibility with respect to the Sherman Act, whether any violations are there because that is how they moved with respect to AT&T.

The thrust here is by the long distance crowd to get some more bureaucracy.

That stated it in a line.

Just like my friends, the Bell crowd, wanted to do away with the public trust, this long distance crowd wants to bureaucratize the entire thing like the end of the world is going to happen if you do not have the Justice Department bureaucracy and minions studying, moving, motioning, hearing, and everything else.

I graduated from law school. I had a colleague I think who joined the Louisiana land case down there. Like the Georgia Pacific, they had the Louisiana pulp and paper case. It was a long —well, 13 years later, under the fees he got, he was retired down in Florida. And I always regretted that I went to trying cases in my hometown and did not get connected up with one of those rich antitrust motions.

We are all spoiled. You have a wonderful Assistant Attorney General in charge of the Antitrust Division, Ms. Anne Bingaman, who has done an outstanding job with respect, for example, to the Microsoft case and engineering the Ameritech consent decree. You have a wonderful set of facts there where they were all petitioning and joining in. They were not enjoining. They were not motioning to estop. They were not appealing. And they were not getting clarifications and everything else, all these other motions that can be made under antitrust with findings and what have you.

This was already under the Department of Justice consent decree, the MFJ consent decree whereby they could come in and motion the judge and agree on a limited market that was outlined, and you did not have to go into the regular antitrust bureaucracy and ritual that takes years on end, which they have already put in the Record, fortunately, for me.

The Senator from North Dakota talked about starting with President Nixon, President Ford, President Carter, and then finally under President Reagan. So there is a strong feeling here that we tried to simplify as much as possible this proceeding.

And under the amendment of the Senator from North Dakota about the 8(c) test, no one knows it better than I because I did cite those letters and understanding and everything else of that kind. Because of the way 1822 was drafted year before last, it had actual and demonstrable competition. That just threw everything into the fan, and before I could get around and explain anything to the colleagues and everything else what we were trying to do, they just had a mindset that the chairman of the Commerce Committee was off on a toot and a little mixed up and it was not going to go anywhere. I had to agree with them; I was not going to go anywhere. So we sat down and over a 2-year period, meeting every Friday with all the Bell companies, and meeting every Tuesday morning with all of the long distance companies and the other long distance competitors in there, we then started spelling out as best we could that checklist of what actual and demonstrable competition would encompass. So we spell this out dutifully.

I wish to read that to you because I wish to show you what actual and demonstrable, what 8(c) is. The idea is that we have disregarded the admonition that there be no substantial possibility of using monopoly power to impede competition.

Well, how do you determine that? You determine that best by making a checklist of the unbundling, of the local exchange, the interconnection after it is unbundled. You get the dial parity: You set up a separate subsidiary and all the other particular items listed.

I have a wonderful group here that is very familiar with the bill. They know how exactly to turn to the page and section so I can read it to you. But while they search for it, which is very difficult to find, what we did is we dutifully spelled out the 8(c) test, which is the amendment of the Senator from North Dakota, and thereupon put in the bill itself, which, again I think, is on page 89. Understand, we had not disregarded actual and demonstrable competition. On page 16, line 10:

(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 software to the extent defined in the implementing regulations by the Commission.

(3) 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 carrier's 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 and quality to and offered at a price no higher than that provided by the local exchange carrier to itself or to any subsidiary,

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affiliate, or any other party to which the carrier provides interconnection;

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

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

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

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

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

(7) telecommunications services and network functions of the local exchange carrier to be available—

AMENDMENT NO. 1265, AS MODIFIED

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

The PRESIDING OFFICER. The amendment will be so modified.

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

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

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

SUBTITLE B—TERMINATION OF MODIFICATION OF FINAL JUDGMENT

SEC. 221. REMOVAL OF LONG DISTANCE RESTRICTIONS.

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

"SEC. 255. INTEREXCHANGE TELECOMMUNICATIONS SERVICES.

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

"(1) interLATA telecommunications services originating in any region in which it is the dominant provider of wireline telephone exchange service or exchange access service to the extent approved by the Commission and the Attorney General of the United States, in accordance with the provisions of subsection (c);

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

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

"(b) SPECIFIC INTERLATA INTERCONNECTION REQUIREMENTS.—

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

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

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

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

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

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

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

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

"(G) Nondiscriminatory access to—

"(i) 911 and E911 services;

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

"(iii) operator call completion services.

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

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

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

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

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

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

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

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

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

"(3) JOINT MARKETING OF LOCAL AND LONG DISTANCE SERVICES.—Until a Bell operating company is authorized to provide interLATA services in a telephone exchange "area where that company is the dominant provider of wireline telephone exchange service or exchange access service," a telecommunications carrier may not jointly market telephone exchange service in such telephone exchange area purchased from such company with interLATA services offered by that telecommunications carrier.

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

"(c) IN-REGION SERVICES.—

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

"(2) DETERMINATION BY COMMISSION AND ATTORNEY GENERAL.—

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

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

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

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

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

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

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affiliate, or any other party to which the carrier provides interconnection;

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

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

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

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

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

(7) telecommunications services and network functions of the local exchange carrier to be available—

AMENDMENT NO. 1265, AS MODIFIED

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

The PRESIDING OFFICER. The amendment will be so modified.

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

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

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

SUBTITLE B—TERMINATION OF MODIFICATION OF FINAL JUDGMENT

SEC. 231. REMOVAL OF LONG DISTANCE RESTRICTIONS.

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

"SEC. 255. INTEREXCHANGE TELECOMMUNICATIONS SERVICES.

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

"(1) interLATA telecommunications services originating in any region in which it is the dominant provider of wireline telephone exchange service or exchange access service to the extent approved by the Commission and the Attorney General of the United States, in accordance with the provisions of subsection (c);

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

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

"(b) SPECIFIC INTERLATA INTERCONNECTION REQUIREMENTS.—

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

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

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

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

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

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

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

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

"(G) Nondiscriminatory access to—

"(i) 911 and E911 services;

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

"(iii) operator call completion services.

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

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

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

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

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

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

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

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

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

"(3) JOINT MARKETING OF LOCAL AND LONG DISTANCE SERVICES.—Until a Bell operating company is authorized to provide interLATA services in a telephone exchange "area where that company is the dominant provider of wireline telephone exchange service or exchange access service," a telecommunications carrier may not jointly market telephone exchange service in such telephone exchange area purchased from such company with interLATA services offered by that telecommunications carrier.

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

"(c) IN-REGION SERVICES.—

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

"(2) DETERMINATION BY COMMISSION AND ATTORNEY GENERAL.—

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

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

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

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

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

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

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

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

"(4) JUDICIAL REVIEW.—

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

"(B) JUDGMENT.—

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

"(ii) A judgment—

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

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

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

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

"(A) SEPARATE AFFILIATE; SAFEGUARDS.—Other than interLATA services au-".

AMENDMENT NO. 1264, AS MODIFIED

Mr. HOLLINGS. I thank the distinguished Senator.

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

(A) of services included—

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

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

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

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

Here is how that reads:

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

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

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

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

The Commission, after doing all of that, has at its hand a duty affirmatively—you are talking about affirmative action in Washington these days. The affirmative action imposed upon the Federal Communications Commission is found on page 89 where the "Commission shall consult with the Attorney General regarding the application. In consulting with the Commission under this subparagraph, the Attorney General may apply any appropriate standard."

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

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

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

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

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

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

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shelter, sound amplification devices, and such other equipment as may be required for the event to be carried out under this resolution. The portable shelter shall be approximately 60 feet by 65 feet in size to cover the Comanche helicopter referred to in section 1 and to provide shelter for the public and the technology displays and video presentations associated with the event.

SEC. 4. EVENT PREPARATIONS.

The Joint Venture is authorized to conduct the event to be carried out under this resolution from 8 a.m. to 3 p.m. on June 21, 1995, or on such other date as may be designated under section 1. Preparations for the event may begin at 1 p.m. on the day before the event and removal of the displays, shelter, and Comanche helicopter referred to in section 1 shall be completed by 6 a.m. on the day following the event.

SEC. 5. ADDITIONAL ARRANGEMENTS.

The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements that may be required to carry out the event under this resolution.

SEC. 6. LIMITATION ON REPRESENTATIONS.

The Boeing Company and the United Technology Corporation shall not represent, either directly or indirectly, that this resolution or any activity carried out under this resolution in any way constitutes approval or endorsement by the Federal Government of the Boeing Company or the United Technology Corporation or any product or service offered by the Boeing Company or the United Technology Corporation.

SENATE RESOLUTION 129—TO ELECT KELLY D. JOHNSTON AS SECRETARY OF THE SENATE

Mr. NICKLES (for Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 129

Resolved, That Kelly D. Johnston, of Oklahoma, be, and he hereby is, elected Secretary of the Senate beginning June 8, 1995.

SENATE RESOLUTION 130—RELATIVE TO THE ELECTION OF THE SECRETARY OF THE SENATE

Mr. NICKLES (for Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 130

Resolved, That the President of the United States be notified of the election of the Honorable Kelly D. Johnston, of Oklahoma, as Secretary of the Senate.

SENATE RESOLUTION 131—RELATIVE TO THE ELECTION OF THE SECRETARY OF THE SENATE

Mr. NICKLES (for Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 131

Resolved, That the House of Representatives be notified of the election of the Honorable Kelly D. Johnston, of Oklahoma, as Secretary of the Senate.

AMENDMENTS SUBMITTED

THE TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT OF 1995 COMMUNICATIONS DECENCY ACT OF 1995

DORGAN AMENDMENT NO. 1259

Mr. DORGAN proposed an amendment to the bill (S. 652) to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes; as follows:

On line 24 of page 44, strike the word "may" and insert in lieu thereof "shall".

McCAIN AMENDMENT NO. 1260

Mr. McCAIN proposed an amendment to the bill S. 652, supra; as follows:

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

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

"(1) the Commission submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce of the House of Representatives a report on the contributions, or increase in such contributions, to be imposed; and

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

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

McCAIN (AND OTHERS) AMENDMENT NO. 1261

Mr. McCAIN (for himself, Mr. PACKWOOD, Mr. CRAIG, Mr. KYL, Mr. GRAMM, Mr. ABRAHAM, Mr. DOMENICI, Mr. THOMAS, Mr. KEMPTHORNE, and Mr. BURNS) proposed an amendment to the bill S. 652, supra; as follows:

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

McCAIN AMENDMENT NO. 1262

Mr. McCAIN proposed an amendment to the bill S. 652, supra; as follows:

Strike section 310 of the Act and renumber the subsequent sections as appropriate.

COHEN (AND OTHERS) AMENDMENT NO. 1263

Mr. COHEN (for himself, Ms. SNOWE, Mr. THURMOND, Mrs. HUTCHINSON, and Mr. LEAHY) proposed an amendment to bill S. 652, supra; as follows:

On page 8, between lines 12 and 13, insert the following:

(15) When devices for achieving access to telecommunications systems have been available directly to consumers on a competitive basis, consumers have enjoyed expanded choice, lower prices, and increased innovation.

(16) While recognizing the legitimate interest of multichannel video programming distributors to ensure the delivery of services to authorized recipients only, addressable converter boxes should be available to consumers on a competitive basis. The private sector has the expertise to develop and adopt standards that will ensure competition of these devices. When the private sector fails to develop and adopt such standards, the Federal government may play a role by taking transitional actions to ensure competition.

On page 82, between lines 4 and 5, insert the following:

SEC. 208. COMPETITIVE AVAILABILITY OF CONVERTER BOXES.

Part III of title VI (47 U.S.C. 521 et seq.) is amended by inserting after section 624A the following:

"SEC. 634B. COMPETITIVE AVAILABILITY OF CONVERTER BOXES.

"(a) AVAILABILITY.—The Commission shall, after notice and opportunity for public comment, adopt regulations to ensure the competitive availability of addressable converter boxes to subscribers of services of multichannel video programming distributors from manufacturers, retailers, and other vendors that are not telecommunications carriers and not affiliated with providers of telecommunications service. Such regulations shall take into account—

"(1) the needs of owners and distributors of video programming and information services to ensure system and signal security and prevent theft of the programming or services; and

"(2) the need to ensure the further deployment of new technology relating to converter boxes.

"(b) TERMINATION OF REGULATIONS.—The regulations adopted pursuant to this section shall provide for the termination of such regulations when the Commission determines that there exists a competitive market for multichannel video programming services and addressable converter boxes among manufacturers, retailers, and other vendors that are not telecommunications carriers and not affiliated with providers of telecommunications service.".

DORGAN (AND OTHERS) AMENDMENT NO. 1264

Mr. DORGAN (for himself, Mr. SIMON, Mr. KERREY, Mr. REID, and Mr. LEAHY) proposed an amendment to the bill S. 652, supra, as follows:

On page 82, line 23, beginning with the word "after", delete all that follows through the word "services" on line 2, page 83 and insert therein the following: "to the extent approved by the Commission and the Attorney General".

On page 88, line 17, after the word "Commission", add the words "and Attorney General".

On page 89, beginning with the word "before" on line 9, strike all that follows through line 15.

On page 90, line 10, replace "(3)" with "(C)"; after the word "Commission" on line 17, add the words "or Attorney General"; and after the word "Commission" on line 19, add the words "and Attorney General".

On page 90, after line 13, add the following paragraphs:

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