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104TH CONGRESS
1ST SESSION

H. R. 1555

To promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.

IN THE HOUSE OF REPRESENTATIVES

MAY 3, 1995

Mr. BLILEY (for himself, Mr. DINGELL, Mr. FIELDS of Texas, Mr. MOORHEAD, Mr. OXLEY, Mr. BILIRAKIS, Mr. SCHAEFER, Mr. BARTON of Texas, Mr. HASTERT, Mr. STEARNS, Mr. PAXON, Mr. GILLMOR, Mr. KLUG, Mr. GREENWOOD, Mr. CRAPO, Mr. FRISA, Mr. WHITE, Mr. COBURN, Mr. TAUZIN, Mr. HALL of Texas, Mr. BOUCHER, Mr. MANTON, Mr. TOWNS, Ms. ESHOO, and Mrs. LINCOLN) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.

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

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SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Communications Act of 1995".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—DEVELOPMENT OF COMPETITIVE TELECOMMUNICATIONS MARKETS

Sec. 101. Establishment of part II of title II.

"PART II—DEVELOPMENT OF COMPETITIVE MARKETS

"Sec. 241. Interconnection.
"Sec. 242. Equal access and interconnection to the local loop for competing providers.
"Sec. 243. Preemption.
"Sec. 244. Statements of terms and conditions for access and interconnection.
"Sec. 245. Bell operating company entry into interLATA services.
"Sec. 246. Universal service.
"Sec. 247. Pricing flexibility and abolition of rate-of-return regulation.
"Sec. 248. Network functionality and accessibility.
"Sec. 249. Illegal changes in subscriber carrier selections.
"Sec. 250. Study.
"Sec. 251. Territorial exemption.
Sec. 102. Competition in manufacturing, information services, and alarm services.

"PART III—SPECIAL AND TEMPORARY PROVISIONS

"Sec. 271. Manufacturing by Bell operating companies.
"Sec. 272. Electronic publishing by Bell operating companies.
"Sec. 273. Alarm monitoring and telemessaging services by Bell operating companies.
Sec. 103. Forbearance from regulation.
"Sec. 229. Forbearance from regulation.
Sec. 104. Privacy of customer information.
"Sec. 222. Privacy of customer proprietary network information.
Sec. 105. Pole attachments.
Sec. 106. Preemption of franchising authority regulation of telecommunications services.
Sec. 107. Mobile service access to long distance carriers.

TITLE II—CABLE COMMUNICATIONS COMPETITIVENESS

Sec. 201. Cable service provided by telephone companies.

"PART V—VIDEO PROGRAMMING SERVICES PROVIDED BY TELEPHONE COMPANIES

"Sec. 651. Definitions.
"Sec. 652. Separate video programming affiliate.

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"Sec. 653. Establishment of video platform.
"Sec. 654. Authority to prohibit cross-subsidization.
"Sec. 655. Prohibition on buy outs.
"Sec. 656. Applicability of parts I through IV.
"Sec. 657. Rural area exemption.
Sec. 202. Competition from cable systems.
Sec. 203. Competitive availability of navigation devices.
"Sec. 713. Competitive availability of navigation devices.
Sec. 204. Video programming accessibility.
Sec. 205. Technical amendments.

TITLE III—BROADCAST COMMUNICATIONS COMPETITIVENESS

Sec. 301. Broadcaster spectrum flexibility.
"Sec. 336. Broadcast spectrum flexibility.
Sec. 302. Term of licenses.
Sec. 303. Broadcast license renewal procedures.
Sec. 304. Exclusive Federal jurisdiction over direct broadcast satellite service.
Sec. 305. Automated ship distress and safety systems.
Sec. 306. Restrictions on over-the-air reception devices.
Sec. 307. DBS signal security.

TITLE IV—EFFECT ON OTHER LAWS

Sec. 401. Relationship to other laws.
Sec. 402. Preemption of local taxation with respect to direct-to-home satellite services.

TITLE V—DEFINITIONS

Sec. 501. Definitions.

TITLE I—DEVELOPMENT OF COMPETITIVE TELECOMMUNICATIONS MARKETS

SEC. 101. ESTABLISHMENT OF PART II OF TITLE II.

(a) AMENDMENT.—Title II of the Communications Act of 1934 is amended by inserting after section 229 (47 U.S.C. 229) the following new part:

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"PART II—DEVELOPMENT OF COMPETITIVE MARKETS

"SEC. 241. INTERCONNECTION.

"The duty of a common carrier under section 201(a) includes the duty to interconnect with the facilities and equipment of other providers of telecommunications services and information services.

"SEC. 242. EQUAL ACCESS AND INTERCONNECTION TO THE LOCAL LOOP FOR COMPETING PROVIDERS.

"(a) OPENNESS AND ACCESSIBILITY OBLIGATIONS.—The duty under section 201(a) of a local exchange carrier includes the following duties:

"(1) INTERCONNECTION.—The duty to provide, in accordance with subsection (b), equal access to and interconnection with the facilities of the carrier's networks to any other carrier or person offering (or seeking to offer) telecommunications services or information services reasonably requesting such equal access and interconnection, so that such networks are fully interoperable with such telecommunications services and information services.

"(2) UNBUNDLING OF NETWORK ELEMENTS.—The duty to offer unbundled services, elements, features, functions, and capabilities whenever technically feasible and economically reasonable, at just,

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reasonable, and nondiscriminatory prices and in accordance with subsection (b)(4).

"(3) RESALE.—The duty not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale, on a bundled or unbundled basis, of services, elements, features, functions, and capabilities in conjunction with the furnishing of a telecommunications service or an information service.

"(4) NUMBER PORTABILITY.—The duty to provide, to the extent technically feasible and economically reasonable, number portability in accordance with requirements prescribed by the Commission.

"(5) DIALING PARITY.—The duty to provide, in accordance with subsection (c), dialing parity to competing providers of telephone exchange service and telephone toll service.

"(6) ACCESS TO RIGHTS OF WAY.—The duty to afford access to the poles, ducts, conduits, and rights of way of such carrier to competing providers of telecommunications services in accordance with section 224(d).

"(7) NETWORK FUNCTIONALITY AND ACCESSIBILITY.—The duty not to install network features,

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functions, or capabilities that do not comply with the standards established pursuant to section 248.

"(8) GOOD FAITH NEGOTIATION.—The duty to negotiate, under the supervision of State commissions, the particular terms and conditions of agreements to fulfill the duties described in paragraphs (1) through (7).

"(b) INTERCONNECTION, COMPENSATION, AND EQUAL ACCESS.—

"(1) INTERCONNECTION.—A local exchange carrier shall provide access to and interconnection with the facilities of the carrier's network at any technically feasible and economically reasonable point within the carrier's network on just and reasonable terms and conditions, to any other carrier or person offering (or seeking to offer) telecommunications services or information services requesting such access.

"(2) INTERCARRIER COMPENSATION BETWEEN FACILITIES-BASED CARRIERS.—

"(A) IN GENERAL.—For the purposes of paragraph (1), the terms and conditions for interconnection of the network of a competing provider of telephone exchange service shall not

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be considered to be just and reasonable unless—

"(i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the termination on such carrier's network of calls that originate on the network of the other carrier;

"(ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls; and

"(iii) the recovery of costs permitted by such terms and conditions are reasonable in relation to the prices for termination of calls that would prevail in a competitive market.

"(B) RULES OF CONSTRUCTION.—This paragraph shall not be construed—

"(i) to preclude arrangements that afford such mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements); or

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"(ii) to authorize the Commission or any State commission to engage in any rate regulation proceeding to establish with particularity the additional costs of terminating calls, or to require carriers to maintain records with respect to the additional costs of terminating calls.

"(3) EQUAL ACCESS.—A local exchange carrier shall afford, to any other carrier or person offering (or seeking to offer) a telecommunications service or an information service, reasonable and nondiscriminatory access on an unbundled basis—

"(A) to databases, signaling systems, poles, ducts, conduits, and rights-of-way owned or controlled by a local exchange carrier, or other facilities, functions, or information (including subscriber numbers) integral to the efficient transmission, routing, or other provision of telephone exchange services or exchange access;

"(B) that is at least equal in type, quality, and price to the access which the carrier affords to itself or to any other person; and

"(C) that is sufficient to ensure the full interoperability of the equipment and facilities

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of the carrier and of the person seeking such access.

"(4) COMMISSION ACTION REQUIRED.—

"(A) IN GENERAL.—Within 15 months after the date of enactment of this part, the Commission shall complete all actions necessary (including any reconsideration) to establish regulations to implement the requirements of this section. The Commission shall establish such regulations after consultation with the Joint Board established pursuant to section 246.

"(B) COLLOCATION.—Such regulations shall provide for actual collocation of equipment necessary for interconnection for telecommunications services at the premises of a local exchange carrier, except that the regulations shall provide for virtual collocation where the local exchange carrier demonstrates that actual collocation is not practical for technical reasons or because of space limitations.

"(C) USER PAYMENT OF UNBUNDLING COSTS.—Such regulations shall require that the costs that a carrier incurs in offering unbundled services, elements, features, functions, and capabilities shall be borne by the users of such

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services, elements, features, functions, and capabilities.

"(D) IMPUTED CHARGES TO CARRIER.—Such regulations shall require the carrier, to the extent it provides a telecommunications service or an information service, to impute such access and interconnection charges to itself.

"(c) NUMBER PORTABILITY AND DIALING PARITY.—

"(1) AVAILABILITY.—A local exchange carrier shall ensure that—

"(A) number portability shall be available on request in accordance with subsection (a)(4); and

"(B) dialing parity shall be available upon request, except that, in the case of a Bell operating company, such company shall ensure that dialing parity for intraLATA telephone toll service shall be available not later than the date such company is authorized to provide interLATA services.

"(2) NUMBER ADMINISTRATION.—The Commission shall designate an impartial entity to administer telecommunications numbering and to make such numbers available on an equitable basis. The Com-

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mission shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States. Nothing in this paragraph shall preclude the Commission from delegating to State commissions or other entities any portion of such jurisdiction.

"(d) MODIFICATIONS AND WAIVERS.—The Commission may modify or waive the requirements of this section for any local exchange carrier (or class or category of such carriers) that has, in the aggregate nationwide, fewer than 500,000 access lines installed, to the extent that the Commission determines that compliance with such requirements (without such modification) would be unduly economically burdensome, technologically infeasible, or otherwise not in the public interest.

"(e) AVOIDANCE OF REDUNDANT REGULATIONS.—Nothing in this section shall be construed to prohibit the Commission from enforcing regulations prescribed prior to the date of enactment of this part in fulfilling the requirements of this section, to the extent that such regulations are consistent with the provisions of this section.

"SEC. 243. PREEMPTION.

"(a) REMOVAL OF BARRIERS TO ENTRY.—Except as provided in subsection (b) of this section, no State or local statute, regulation, or other legal requirement shall—

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"(1) effectively prohibit any carrier or other person from entering the business of providing interstate or intrastate telecommunications services or information services; or

"(2) effectively prohibit any carrier or other person providing interstate or intrastate telecommunications services or information services from exercising the access and interconnection rights provided under this part.

"(b) STATE AND LOCAL AUTHORITY.—Nothing in this section shall affect the ability of State or local officials to impose, on a nondiscriminatory basis, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, ensure that a provider's business practices are consistent with consumer protection laws and regulations, and ensure just and reasonable rates, provided that such requirements do not effectively prohibit any carrier or person from providing interstate or intrastate telecommunications services or information services.

"(c) CONSTRUCTION PERMITS.—Subsection (a) shall not be construed to prohibit a local government from requiring a person or carrier to obtain ordinary and usual construction or similar permits for its operations if—

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"(1) such permit is required without regard to the nature of the business; and

"(2) requiring such permit does not effectively prohibit any person or carrier from providing any interstate or intrastate telecommunications service or information service.

"(d) EXCEPTION.—In the case of commercial mobile services, the provisions of section 332(c)(3) shall apply in lieu of the provisions of this section.

"(e) PARITY OF FRANCHISE AND OTHER CHARGES.—Notwithstanding section 2(b), no local government may impose or collect any franchise, license, permit, or right-of-way fee or any assessment, rental, or any other charge or equivalent thereof as a condition for operating in the locality or for obtaining access to, occupying, or crossing public rights-of-way from any provider of telecommunications services that distinguishes between or among providers of telecommunications services, including the local exchange carrier. For purposes of this subsection, a franchise, license, permit, or right-of-way fee or an assessment, rental, or any other charge or equivalent thereof does not include any imposition of general applicability which does not distinguish between or among providers of telecommunications services, or any tax.

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"SEC. 244. STATEMENTS OF TERMS AND CONDITIONS FOR ACCESS AND INTERCONNECTION.

"(a) IN GENERAL.—Within 18 months after the date of enactment of this part, and from time to time thereafter, a local exchange carrier shall prepare and file with a State commission statements of the terms and conditions that such carrier generally offers within that State with respect to the services or elements provided to comply with the equal access and interconnection requirements of section 242 and the regulations thereunder. Any such statement pertaining to the charges for interstate services or elements shall be filed with the Commission.

"(b) REVIEW.—

"(1) STATE COMMISSION REVIEW.—A State commission to which a statement is submitted under subsection (a) shall review such statement in accordance with State law. A State commission may not approve such statement unless such statement complies with section 242 and the regulations thereunder. Except as provided in section 243, nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of such statement.

"(2) FCC REVIEW.—The Commission shall review such statements to ensure that—

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"(A) the charges for interstate services or elements are just, reasonable, and nondiscriminatory; and

"(B) the terms and conditions for such interstate services or elements unbundle any separable services, elements, features, functions, or capabilities in accordance with section 242(a)(2) and any regulations thereunder.

"(c) TIME FOR REVIEW.—

"(1) SCHEDULE FOR REVIEW.—The Commission and the State commission to which a statement is submitted shall, not later than 60 days after the date of such submission—

"(A) complete the review of such statement under subsection (b) (including any reconsideration thereof), unless the submitting carrier agrees to an extension of the period for such review; or

"(B) permit such statement to take effect.

"(2) AUTHORITY TO CONTINUE REVIEW.—Paragraph (1) shall not preclude the Commission or a State commission from continuing to review a statement that has been permitted to take effect under subparagraph (B) of such paragraph.

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"(d) EFFECT OF AGREEMENTS.—Nothing in this section shall prohibit a carrier from filing an agreement to provide services or elements affording access and interconnection as a statement of terms and conditions that the carrier generally offers for purposes of this section. The approval of a statement under this section shall not operate to prohibit a carrier from entering into subsequent agreements that contain terms and conditions that differ from those contained in a statement that has been reviewed and approved under this section, but—

"(1) each such subsequent agreement shall be filed under this section; and

"(2) such carrier shall be obligated to offer access to such services and elements to other carriers and persons (including carriers and persons covered by previously approved statements) requesting such access on terms and conditions that, in relation to the terms and conditions in such subsequent agreements, are not discriminatory.

"(e) SUNSET.—The provisions of this section shall cease to apply in any local exchange market, defined by geographic area and class or category of service, that the Commission determines has become subject to full and open competition.

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"SEC. 245. BELL OPERATING COMPANY ENTRY INTO INTERLATA SERVICES.

"(a) VERIFICATION OF ACCESS AND INTERCONNECTION COMPLIANCE.—At any time after 18 months after the date of enactment of this part, a Bell operating company may provide to the Commission verification by such company with respect to one or more States that such company is in compliance with the requirements of this part. Such verification shall contain the following:

"(1) CERTIFICATION.—A certification by each State commission of such State or States that such carrier is in compliance with the standards described in subsection (b), except as provided in subsection (c)(2).

"(2) AGREEMENT OR STATEMENT.—For each such State, either of the following:

"(A) PRESENCE OF A FACILITIES-BASED COMPETITOR.—An agreement that has been approved under section 243 specifying the terms and conditions under which the Bell operating company is providing access and interconnection to its network in accordance with section 242 for the network of a competing provider of telephone exchange service.

"(B) FAILURE TO REQUEST ACCESS.—If no such provider has requested such access and

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interconnection before the date which is 3 months before the date the company makes its submission under this subsection, a statement of the terms and conditions that the carrier generally offers to provide such access and interconnection that has been approved or permitted to take effect by the State commission under section 243.

"(b) CERTIFICATION OF COMPLIANCE WITH PART II.—For the purposes of subsection (a)(1), a Bell operating company shall submit to the Commission a certification by a State commission of compliance with each of the following conditions in such State:

"(1) INTERCONNECTION.—The Bell operating company provides access and interconnection in accordance with subsections (a)(1) and (b) of section 242 to any other carrier or person offering telecommunications services requesting such access and interconnection, and complies with the Commission regulations pursuant to such section concerning such access and interconnection.

"(2) UNBUNDLING OF NETWORK ELEMENTS.—The Bell operating company provides unbundled features, functions, and capabilities in accordance with subsection (a)(2) of section 242 and the regulations

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prescribed by the Commission pursuant to such section.

"(3) RESALE AND SHARING.—Neither the Bell operating company, nor any unit of State or local government within the State, imposes any restrictions on resale or sharing of telephone exchange service (or unbundled services, elements, features, or functions of telephone exchange service) in violation of section 242(a)(3).

"(4) NUMBER PORTABILITY.—The Bell operating company provides number portability in compliance with the Commission's regulations pursuant to subsections (a)(4) and (c) of section 242.

"(5) DIALING PARITY.—The Bell operating company provides dialing parity in accordance with subsections (a)(5) and (c) of section 242, and will, not later than the effective date of its authority to commence providing interLATA services, take such actions as are necessary to provide dialing parity for intraLATA telephone toll service in accordance with such subsections.

"(6) ACCESS TO CONDUITS AND RIGHTS OF WAY.—The poles, ducts, conduits, and rights of way of such Bell operating company are available to competing providers of telecommunications services in

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accordance with the requirements of sections 242(a)(6) and 224(d).

"(7) ELIMINATION OF FRANCHISE LIMITATIONS.—No unit of the State or local government in such State or States imposes any prohibition or limitation in violation of section 243.

"(8) NETWORK FUNCTIONALITY AND ACCESSIBILITY.—The Bell operating company will not install network features, functions, or capabilities that do not comply with the standards established pursuant to section 248.

"(9) NEGOTIATION OF TERMS AND CONDITIONS.—The Bell operating company has negotiated in good faith, under the supervision of the State commission, in accordance with the requirements of section 242(a)(8) with any person requesting access or interconnection.

"(c) COMMISSION REVIEW.—

"(1) REVIEW OF STATE DECISIONS AND CERTIFICATIONS.—The Commission shall review any verification submitted by a Bell operating company pursuant to subsection (a). The Commission may require such company to submit such additional information as is necessary to validate any of the items of such verification.

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"(2) DE NOVO REVIEW.—If—

"(A) a State commission does not have the jurisdiction or authority to make the certification required by subsection (b);

"(B) the State commission has failed to act within 90 days after the date a request for such certification is filed with such State commission; or

"(C) the State commission has sought to impose a term or condition in violation of section 243;

the local exchange carrier may request the Commission to certify the carrier's compliance with the conditions specified in subsection (b).

"(3) TIME FOR DECISION; PUBLIC COMMENT.—Unless such Bell operating company consents to a longer period of time, the Commission shall approve, disapprove, or approve with conditions such verification within 90 days after the date of its submission. During such 90 days, the Commission shall afford interested persons an opportunity to present information and evidence concerning such verification.

"(4) STANDARD FOR DECISION.—The Commission shall not approve such verification unless the Commission determines that—

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"(A) the Bell operating company meets each of the conditions required to be certified under subsection (b); and

"(B) the agreement or statement submitted under subsection (a)(2) complies with the requirements of section 242 and the regulations thereunder.

"(d) ENFORCEMENT OF CONDITIONS.—

"(1) COMMISSION AUTHORITY.—If at any time after the approval of a verification under subsection (c), the Commission determines that a Bell operating company has ceased to meet any of the conditions required to be certified under subsection (b), the Commission may, after notice and opportunity for a hearing—

"(A) issue an order to such company to correct the deficiency;

"(B) impose a penalty on such company pursuant to title V; or

"(C) suspend or revoke such approval.

"(2) RECEIPT AND REVIEW OF COMPLAINTS.—The Commission shall establish procedures for the review of complaints concerning failures by Bell operating companies to meet conditions required to be certified under subsection (b). Unless the parties

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otherwise agree, the Commission shall act on such complaint within 90 days.

"(3) STATE AUTHORITY.—The authority of the Commission under this subsection shall not be construed to preempt any State commission from taking actions to enforce the conditions required to be certified under subsection (b).

"(e) AUTHORITY TO PROVIDE INTERLATA SERVICES.—

"(1) PROHIBITION.—Except as provided in paragraph (2) and subsection (f), a Bell operating company may not provide interLATA services.

"(2) AUTHORITY SUBJECT TO CERTIFICATION.—A Bell operating company may, in any States to which its verification under subsection (a) applies, provide interLATA services—

"(A) during any period after the effective date of the Commission's approval of such verification pursuant to subsection (c), and

"(B) until the approval of such verification is suspended or revoked by the Commission pursuant to subsection (c).

"(f) EXCEPTIONS FOR INCIDENTAL SERVICES.—Subsection (e) shall not prohibit a Bell operating company,

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at any time after the date of the enactment of this part, from providing interLATA services for the purpose of—

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

"(B) providing the capability for interaction by such subscribers to select or respond to such audio programming, video programming, or other programming services; or

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

"(2) providing a telecommunications service, using the transmission facilities of a cable system that is an affiliate of such company, between local access and transport areas within a cable system franchise area in which such company is not, on the date of the enactment of this Act, a provider of wireline telephone exchange service;

"(3) providing commercial mobile services in accordance with section 332(c) of this Act and with the regulations prescribed by the Commission pursuant to paragraph (7) of such section;

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"(4) providing a service that permits a customer that is located in one local access and transport area to retrieve stored information from, or file information for storage in, information storage facilities of such company that are located in another local access and transport area;

"(5) providing signaling information used in connection with the provision of telephone exchange services to a local exchange carrier that, together with any affiliated local exchange carriers, has aggregate annual revenues of less than $100,000,000; or

"(6) providing network control signaling information to, and receiving such signaling information from, common carriers offering interLATA services at any location within the area in which such Bell operating company provides telephone exchange services or exchange access.

"(g) FORBEARANCE.—The Commission may not, pursuant to section 229, forbear from applying any provision of this section or any regulation thereunder until at least 5 years after the date of enactment of this part.

"(h) SUNSET.—The provisions of this section shall cease to apply in any local exchange market, defined by geographic area and class or category of service, that the

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Commission determines has become subject to full and open competition.

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

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

"(2) VIDEO PROGRAMMING.—The term 'video programming' has the meaning provided in section 602.

"(3) OTHER PROGRAMMING SERVICES.—The term 'other programming services' means information (other than audio programming or video programming) that the person who offers a video programming service makes available to all subscribers generally. For purposes of the preceding sentence, the terms 'information' and 'makes available to all subscribers generally' have the same meaning such terms have under section 602(13) of this Act.

"SEC. 246. UNIVERSAL SERVICE.

"(a) JOINT BOARD TO PRESERVE UNIVERSAL SERVICE.—Within 30 days after the date of enactment of this part, the Commission shall convene a Federal-State Joint Board under section 410(c) for the purpose of recommending actions to the Commission and State commis-

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sions for the preservation of universal service in furtherance of the purposes set forth in section 1 of this Act. In addition to the members required under section 410(c), one member of the Joint Board shall be a State-appointed utility consumer advocate nominated by a national organization of State utility consumer advocates.

"(b) PRINCIPLES.—The Joint Board shall base policies for the preservation of universal service on the following principles:

"(1) JUST AND REASONABLE RATES.—A plan adopted by the Commission and the States should ensure the continued viability of universal service by maintaining quality services at just and reasonable rates.

"(2) DEFINITIONS OF INCLUDED SERVICES; COMPARABILITY IN URBAN AND RURAL AREAS.—Such plan should recommend a definition of the nature and extent of the services encompassed within carriers' universal service obligations. Such plan should seek to promote access to advanced telecommunications services and capabilities, and to promote reasonably comparable services for the general public in urban and rural areas, while maintaining just and reasonable rates.

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"(3) ADEQUATE AND SUSTAINABLE SUPPORT MECHANISMS.—Such plan should recommend specific and predictable mechanisms to provide adequate and sustainable support for universal service.

"(4) EQUITABLE AND NONDISCRIMINATORY CONTRIBUTIONS.—All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation of universal service.

"(5) EDUCATIONAL ACCESS TO ADVANCED TELECOMMUNICATIONS SERVICES.—To the extent that a common carrier establishes advanced telecommunications services, such plan should include recommendations to ensure access to advanced telecommunications services for students in elementary and secondary schools.

"(6) ADDITIONAL PRINCIPLES.—Such other principles as the Board determines are necessary and appropriate for the protection of the public interest, convenience, and necessity and consistent with the purposes of this Act.

"(c) DEFINITION OF UNIVERSAL SERVICE.—In recommending a definition of the nature and extent of the services encompassed within carriers' universal service ob-

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ligations under subsection (b)(2), the Joint Board shall consider the extent to which—

"(1) a telecommunications service has, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;

"(2) such service or capability is essential to public health, public safety, or the public interest;

"(3) such service has been deployed in the public switched telecommunications network; and

"(4) inclusion of such service within carriers' universal service obligations is otherwise consistent with the public interest, convenience, and necessity.

The Joint Board may, from time to time, recommend to the Commission modifications in the definition proposed under subsection (b).

"(d) REPORT; COMMISSION RESPONSE.—The Joint Board convened pursuant to subsection (a) shall report its recommendations within 270 days after the date of enactment of this part. The Commission shall complete any proceeding to act upon such recommendations and to comply with the principles set forth in subsection (b) within one year after such date of enactment.

"(e) STATE AUTHORITY.—Nothing in this section shall be construed to restrict the authority of any State

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to adopt regulations imposing universal service obligations on the provisions of intrastate telecommunications services.

"(f) SUNSET.—The Joint Board established by this section shall cease to exist 5 years after the date of enactment of this part.

"SEC. 247. PRICING FLEXIBILITY AND ABOLITION OF RATE-OF-RETURN REGULATION.

"(a) PRICING FLEXIBILITY.—

"(1) COMMISSION CRITERIA.—Within 270 days after the date of enactment of this part, the Commission shall complete all actions necessary (including any reconsideration) to establish—

"(A) criteria for determining whether a telecommunications service or provider of such service has become, or is substantially certain to become, subject to competition, either within a geographic area or within a class or category of service; and

"(B) appropriate flexible pricing procedures that afford a regulated provider of a service described in subparagraph (A) the opportunity to respond fairly to such competition and that are consistent with the protection of sub-

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scribers and the public interest, convenience, and necessity.

"(2) STATE SELECTION.—A State commission may utilize the flexible pricing procedures or procedures (established under paragraph (1)(B)) that are appropriate in light of the criteria established under paragraph (1)(A).

"(3) DETERMINATIONS.—The Commission, with respect to rates for interstate or foreign communications, and State commissions, with respect to rates for intrastate communications, shall, upon application—

"(A) render determinations in accordance with the criteria established under paragraph (1)(A) concerning the services or providers that are the subject of such application; and

"(B) upon a proper showing, implement appropriate flexible pricing procedures consistent with paragraphs (1)(B) and (2) with respect to such services or providers.

The Commission and such State commission shall approve or reject any such application within 180 days after the date of its submission.

"(b) ABOLITION OF RATE-OF-RETURN REGULATION.—Notwithstanding any other provision of law, to the

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extent that a carrier has complied with sections 242 and 244 of this part, the Commission, with respect to rates for interstate or foreign communications, and State commissions, with respect to rates for intrastate communications, shall not require rate-of-return regulation.

"(c) TERMINATION OF PRICE REGULATION.—Notwithstanding any other provision of law, to the extent that a carrier has complied with sections 242 and 244 of this part, the Commission, with respect to rates for interstate or foreign communications, and State commissions, with respect to rates for intrastate communications, shall not regulate prices for services that are determined, in accordance with the criteria established under subsection (a)(1)(A), to be subject to competition that effectively prevents rates for such services that are unjust or unreasonable or unjustly or unreasonably discriminatory.

"(d) ABILITY TO CONTINUE AFFORDABLE VOICE-GRADE SERVICE.—Notwithstanding subsections (a), (b), and (c), each State commission shall permit residential subscribers to continue to receive only basic voice-grade local telephone service equivalent to the service generally available to residential subscribers on the date of enactment of this part, at just, reasonable, and affordable rates. Determinations concerning the affordability of rates for such services shall, for a period of 3 years after the effec-

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tive date of any flexible pricing procedure established under this section, be based on the rates generally available to residential subscribers on such date of enactment and the pricing rules established by the State commission.

"(e) EXCEPTION.—In the case of commercial mobile services, the provisions of section 332(c)(1) shall apply in lieu of the provisions of this section.

"(f) AVOIDANCE OF REDUNDANT REGULATIONS.—Nothing in this section shall be construed to prohibit the Commission or a State commission from enforcing regulations prescribed prior to the date of enactment of this part in fulfilling the requirements of this section, to the extent that such regulations are consistent with the provisions of this section.

"SEC. 248. NETWORK FUNCTIONALITY AND ACCESSIBILITY.

"(a) FUNCTIONALITY AND ACCESSIBILITY.—The duty of a common carrier under section 201(a) to furnish communications service includes the duty to furnish that service in accordance with the standards established pursuant to this section.

"(b) COORDINATION FOR INTEROPERABILITY AND ACCESSIBILITY.—The Commission shall establish—

"(1) procedures for the conduct of coordinated network planning by common carriers and other providers of telecommunications services or information

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services, subject to Commission supervision, for the effective and efficient interconnection and interoperability of public and private networks; and

"(2) procedures for Commission oversight of the development by appropriate industry standards-setting organizations of—

"(A) standards for the interconnection and interoperability of such networks;

"(B) standards that promote access to network capabilities and services by individuals with disabilities; and

"(C) standards that promote access to information services by subscribers to telephone exchange service furnished by a rural telephone company.

"(c) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES.—

"(1) ACCESSIBILITY.—Within 1 year after the date of enactment of this section, the Commission shall prescribe such regulations as are necessary to ensure that advances in network services deployed by local exchange carriers shall be accessible and usable by individuals with disabilities, including individuals with functional limitations of hearing, vision, movement, manipulation, speech, and interpretation of in-

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formation, unless the cost of making the services accessible and usable would result in an undue burden or adverse competitive impact. Such regulations shall seek to permit the use of both standard and special equipment, and seek to minimize the need of individuals to acquire additional devices beyond those used by the general public to obtain such access. Throughout the process of developing such regulations, the Commission shall coordinate and consult with representatives of individuals with disabilities and interested equipment and service providers to ensure their concerns and interests are given full consideration in such process.

"(2) COMPATIBILITY.—Such regulations shall require that whenever an undue burden or adverse competitive impact would result from the requirements in paragraph (1), the local exchange carrier that deploys the network service shall ensure that the network service in question is compatible with existing peripheral devices or specialized customer premises equipment commonly used by persons with disabilities to achieve access, unless doing so would result in an undue burden or adverse competitive impact.

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"(3) UNDUE BURDEN.—The term 'undue burden' means significant difficulty or expense. In determining whether the activity necessary to comply with the requirements of this subsection would result in an undue burden, the factors to be considered include the following:

"(A) The nature and cost of the activity.

"(B) The impact on the operation of the facility involved in the deployment of the network service.

"(C) The financial resources of the local exchange carrier.

"(D) The type of operations of the local exchange carrier.

"(4) ADVERSE COMPETITIVE IMPACT.—In determining whether the activity necessary to comply with the requirements of this subsection would result in adverse competitive impact, the following factors shall be considered:

"(A) Whether such activity would raise the cost of the network service in question beyond the level at which there would be sufficient consumer demand by the general population to make the network service profitable.

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"(B) Whether such activity would, with respect to the network service in question, put the local exchange carrier at a competitive disadvantage. This factor may be considered so long as competing network service providers are not held to the same obligation with respect to access by persons with disabilities.

"(5) EFFECTIVE DATE.—The regulations required by this subsection shall become effective 18 months after the date of enactment of this part.

"SEC. 249. ILLEGAL CHANGES IN SUBSCRIBER CARRIER SELECTIONS.

"No common carrier shall submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe. Nothing in this section shall preclude any State commission from enforcing such procedures with respect to intrastate services.

"SEC. 250. STUDY.

"At least once every three years, the Commission shall conduct a study that—

"(1) reviews the definition of, and the adequacy of support for, universal service, and evaluates the extent to which universal service has been protected

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and access to advanced services has been facilitated pursuant to this part and the plans and regulations thereunder;

"(2) evaluates the extent to which access to advanced telecommunications services for students in elementary and secondary school classrooms has been attained pursuant to section 246(b)(5); and

"(3) determines whether the regulations established under section 248(c) have ensured that advances in network services by providers of telecommunications services and information services are accessible and usable by individuals with disabilities.

"SEC. 251. TERRITORIAL EXEMPTION.

"Until 5 years after the date of enactment of this part, the provisions of this part shall not apply to any local exchange carrier in any United States territory if (1) the local exchange carrier is owned by the government of such territory, and (2) on the date of enactment of this Act, the number of households subscribing to telephone service is less than 85 percent of the total households located in such territory.".

(b) CONSOLIDATED RULEMAKING PROCEEDING.—The Commission shall conduct a single consolidated rule-

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making proceeding to prescribe or amend regulations necessary to implement the requirements of—

(1) part II of title II of the Communications Act of 1934 as added by subsection (a) of this section;

(2) section 222 as amended by section 104 of this Act; and

(3) section 224 as amended by section 105 of this Act.

(c) DESIGNATION OF PART I.—Title II of the Act is further amended by inserting before the heading of section 201 the following new heading:

"PART I—REGULATION OF DOMINANT COMMON CARRIERS".

(d) CONFORMING AMENDMENTS.

(1) FEDERAL-STATE JURISDICTION.—Section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)) is amended by inserting "part II of title II," after "227, inclusive,".

(2) FORFEITURES.—Sections 503(b)(1) and 504(b) of such Act (47 U.S.C. 503(b)) are each amended by inserting "part I of" before "title II".

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SEC. 103. COMPETITION IN MANUFACTURING, INFORMATION SERVICES, AND ALARM SERVICES.

(a) COMPETITION IN MANUFACTURING, INFORMATION SERVICES, AND ALARM SERVICES..—Title II of the Act is amended by adding at the end of part II (as added by section 101) the following new part:

"PART III—SPECIAL AND TEMPORARY PROVISIONS

"SEC. 271. MANUFACTURING BY BELL OPERATING COMPANIES.

"(a) ACCESS AND INTERCONNECTION.—It shall be unlawful for a Bell operating company, directly or through an affiliate, to manufacture or provide telecommunications equipment, or to manufacture customer premises equipment, until the Commission has approved under section 245(c) verifications that such Bell operating company, and each Bell operating company with which it is affiliated, are in compliance with the access and interconnection requirements of part II of this title.

"(b) COLLABORATION.—Nothing in this section (other than subsection (f)) shall be construed to limit or restrict the ability of a Bell operating company and its affiliates to engage in close collaboration with any manufacturer of customer premises equipment or telecommunications equipment during the design and development of

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hardware, software, or combinations thereof related to such equipment.

"(c) EXISTING MANUFACTURING AUTHORITY.—Nothing in this section shall prohibit any Bell operating company from engaging, directly or through any affiliate, in any manufacturing activity in which any Bell operating company or affiliate was authorized to engage on the date of enactment of this section.

"(d) INFORMATION REQUIREMENTS.—

"(1) INFORMATION ON PROTOCOLS AND TECHNICAL REQUIREMENTS.—Each Bell operating company shall, in accordance with regulations prescribed by the Commission, maintain and file with the Commission full and complete information with respect to the protocols and technical requirements for connection with and use of its telephone exchange service facilities. Each such company shall report promptly to the Commission any material changes or planned changes to such protocols and requirements, and the schedule for implementation of such changes or planned changes.

"(2) DISCLOSURE TO AFFILIATES.—A Bell operating company shall not disclose to any of its affiliates any information required to be filed under paragraph (1) unless that information is filed

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promptly, as required by regulation by the Commission.

"(3) ACCESS BY COMPETITORS TO INFORMATION.—The Commission may prescribe such additional regulations under this subsection as may be necessary to ensure that manufacturers in competition with a Bell operating company's manufacturing affiliate have access to the information with respect to the protocols and technical requirements for connection with and use of its telephone exchange service facilities required for such competition that such company makes available to its manufacturing affiliate.

"(4) PLANNING INFORMATION.—Each Bell operating company shall provide, to contiguous common carriers providing telephone exchange service, timely information on the planned deployment of telecommunications equipment.

"(e) ADMINISTRATION AND ENFORCEMENT AUTHORITY.—For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to any Bell operating company or any affiliate thereof as the Commission has

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in administering and enforcing the provisions of this title with respect to any common carrier subject to this Act.

"(f) ANTITRUST LAWS.—Nothing in this section shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws.

"(g) DEFINITION.—As used in this section, the term 'manufacturing' has the same meaning as such term has under the Modification of Final Judgment.

"SEC. 272. ELECTRONIC PUBLISHING BY BELL OPERATING COMPANIES.

"(a) LIMITATIONS.—No Bell operating company or any affiliate may engage in the provision of electronic publishing that is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service, except that nothing in this section shall prohibit a separated affiliate or electronic publishing joint venture operated in accordance with this section from engaging in the provision of electronic publishing.

"(b) SEPARATED AFFILIATE OR ELECTRONIC PUBLISHING JOINT VENTURE REQUIREMENTS.—A separated affiliate or electronic publishing joint venture shall be operated independently from the Bell operating company. Such separated affiliate or joint venture and the Bell operating company with which it is affiliated shall—

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"(1) maintain separate books, records, and accounts and prepare separate financial statements;

"(2) not incur debt in a manner that would permit a creditor of the separated affiliate or joint venture upon default to have recourse to the assets of the Bell operating company;

"(3) carry out transactions (A) in a manner consistent with such independence, (B) pursuant to written contracts or tariffs that are filed with the Commission and made publicly available, and (C) in a manner that is auditable in accordance with generally accepted auditing standards;

"(4) value any assets that are transferred directly or indirectly from the Bell operating company to a separated affiliate or joint venture, and record any transactions by which such assets are transferred, in accordance with such regulations as may be prescribed by the Commission or a State commission to prevent improper cross subsidies;

"(5) between a separated affiliate and a Bell operating company—

"(A) have no officers, directors, and employees in common after the effective date of this section; and

"(B) own no property in common;

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"(6) not use for the marketing of any product or service of the separated affiliate or joint venture, the name, trademarks, or service marks of an existing Bell operating company except for names, trademarks, or service marks that are or were used in common with the entity that owns or controls the Bell operating company;

"(7) not permit the Bell operating company—

"(A) to perform hiring or training of personnel on behalf of a separated affiliate;

"(B) to perform the purchasing, installation, or maintenance of equipment on behalf of a separated affiliate, except for telephone service that it provides under tariff or contract subject to the provisions of this section; or

"(C) to perform research and development on behalf of a separated affiliate;

"(8) each have performed annually a compliance review—

"(A) that is conducted by an independent entity for the purpose of determining compliance during the preceding calendar year with any provision of this section; and

"(B) the results of which are maintained by the separated affiliate or joint venture and

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the Bell operating company for a period of 5 years subject to review by any lawful authority;

"(9) within 90 days of receiving a review described in paragraph (8), file a report of any exceptions and corrective action with the Commission and allow any person to inspect and copy such report subject to reasonable safeguards to protect any proprietary information contained in such report from being used for purposes other than to enforce or pursue remedies under this section.

"(c) JOINT MARKETING.—

"(1) IN GENERAL.—Except as provided in paragraph (2)—

"(A) a Bell operating company shall not carry out any promotion, marketing, sales, or advertising for or in conjunction with a separated affiliate; and

"(B) a Bell operating company shall not carry out any promotion, marketing, sales, or advertising for or in conjunction with an affiliate that is related to the provision of electronic publishing.

"(2) PERMISSIBLE JOINT ACTIVITIES.—

"(A) JOINT TELEMARKETING.—A Bell operating company may provide inbound

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telemarketing or referral services related to the provision of electronic publishing for a separated affiliate, electronic publishing joint venture, affiliate, or unaffiliated electronic publisher, provided that if such services are provided to a separated affiliate, electronic publishing joint venture, or affiliate, such services shall be made available to all electronic publishers on request, on nondiscriminatory terms.

"(B) TEAMING ARRANGEMENTS.—A Bell operating company may engage in nondiscriminatory teaming or business arrangements to engage in electronic publishing with any separated affiliate or with any other electronic publisher if (i) the Bell operating company only provides facilities, services, and basic telephone service information as authorized by this section, and (ii) the Bell operating company does not own such teaming or business arrangement.

"(C) ELECTRONIC PUBLISHING JOINT VENTURES.—A Bell operating company or affiliate may participate on a nonexclusive basis in electronic publishing joint ventures with entities that are not any Bell operating company, affiliate, or separated affiliate to provide electronic

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publishing services, if the Bell operating company or affiliate has not more than a 50 percent direct or indirect equity interest (or the equivalent thereof) or the right to more than 50 percent of the gross revenues under a revenue sharing or royalty agreement in any electronic publishing joint venture. Officers and employees of a Bell operating company or affiliate participating in an electronic publishing joint venture may not have more than 50 percent of the voting control over the electronic publishing joint venture. In the case of joint ventures with small, local electronic publishers, the Commission for good cause shown may authorize the Bell operating company or affiliate to have a larger equity interest, revenue share, or voting control but not to exceed 80 percent. A Bell operating company participating in an electronic publishing joint venture may provide promotion, marketing, sales, or advertising personnel and services to such joint venture.

"(d) PRIVATE RIGHT OF ACTION.—

"(1) DAMAGES.—Any person claiming that any act or practice of any Bell operating company, affiliate, or separated affiliate constitutes a violation of

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this section may file a complaint with the Commission or bring suit as provided in section 207 of this Act, and such Bell operating company, affiliate, or separated affiliate shall be liable as provided in section 206 of this Act; except that damages may not be awarded for a violation that is discovered by a compliance review as required by subsection (b)(7) of this section and corrected within 90 days.

"(2) CEASE AND DESIST ORDERS.—In addition to the provisions of paragraph (1), any person claiming that any act or practice of any Bell operating company, affiliate, or separated affiliate constitutes a violation of this section may make application to the Commission for an order to cease and desist such violation or may make application in any district court of the United States of competent jurisdiction for an order enjoining such acts or practices or for an order compelling compliance with such requirement.

"(e) SEPARATED AFFILIATE REPORTING REQUIREMENT.—Any separated affiliate under this section shall file with the Commission annual reports in a form substantially equivalent to the Form 10–K required by regulations of the Securities and Exchange Commission.

"(f) EFFECTIVE DATES.—

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"(1) TRANSITION.—Any electronic publishing service being offered to the public by a Bell operating company or affiliate on the date of enactment of this section shall have one year from such date of enactment to comply with the requirements of this section.

"(2) SUNSET.—The provisions of this section shall not apply to conduct occurring after June 30, 2000.

"(g) DEFINITION OF ELECTRONIC PUBLISHING.—

"(1) IN GENERAL.—The term 'electronic publishing' means the dissemination, provision, publication, or sale to an unaffiliated entity or person, of any one or more of the following: news (including sports); business or financial reports; editorials, columns, or features; advertising; photos or images of a type used in publishing; archival material of a type used in publishing legal notices; or other like or similar information.

"(2) EXCEPTIONS.—The term 'electronic publishing' shall not include the following services:

"(A) Information access, as that term is defined by the Modification of Final Judgment.

"(B) The transmission of information as a common carrier.

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"(C) The transmission of information as part of a gateway to an information service that does not involve the generation or alteration of the content of information, including data transmission, address translation, protocol conversion, billing management, introductory information content, and navigational systems that enable users to access electronic publishing services, which do not affect the presentation of such electronic publishing services to users.

"(D) Voice storage and retrieval services, including voice messaging and electronic mail services.

"(E) Data processing or transaction processing services that do not involve the generation or alteration of the content of information.

"(F) Electronic billing or advertising of a Bell operating company's regulated telecommunications services.

"(G) Language translation or data format conversion.

"(H) The provision of information necessary for the management, control, or operation of a telephone company telecommunications system.

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"(I) The provision of directory assistance that provides names, addresses, and telephone numbers and does not include advertising.

"(J) Caller identification services.

"(K) Repair and provisioning databases and credit card and billing validation for telephone company operations.

"(L) 911–E and other emergency assistance databases.

"(M) Any other network service of a type that is like or similar to these network services and that does not involve the generation or alteration of the content of information.

"(N) Any upgrades to these network services that do not involve the generation or alteration of the content of information.

"(O) Video programming or full motion video entertainment on demand.

"(h) ADDITIONAL DEFINITIONS.—As used in this section—

"(1) The term 'affiliate' means any entity that, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control with, a Bell operating company. Such term shall not include a separated affiliate.

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"(2) The term 'basic telephone service' means wireline telephone exchange service provided by a Bell operating company in a telephone exchange area, except that such term does not include—

"(A) a competitive wireline telephone exchange service provided in a telephone exchange area where another entity provides a wireline telephone exchange service that was provided on January 1, 1984, and

"(B) a commercial mobile service.

"(3) The term 'basic telephone service information' means network and customer information of a Bell operating company and other information acquired by a Bell operating company as a result of its engaging in the provision of basic telephone service.

"(4) The term 'control' has the meaning that it has in 17 C.F.R. 240.12b–2, the regulations promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or any successor provision to such section.

"(5) The term 'electronic publishing joint venture' means a joint venture owned by a Bell operating company or affiliate that engages in the provi-

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sion of electronic publishing which is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service.

"(6) The term 'entity' means any organization, and includes corporations, partnerships, sole proprietorships, associations, and joint ventures.

"(7) The term 'inbound telemarketing' means the marketing of property, goods, or services by telephone to a customer or potential customer who initiated the call.

"(8) The term 'own' with respect to an entity means to have a direct or indirect equity interest (or the equivalent thereof) of more than 10 percent of an entity, or the right to more than 10 percent of the gross revenues of an entity under a revenue sharing or royalty agreement.

"(9) The term 'separated affiliate' means a corporation under common ownership or control with a Bell operating company that does not own or control a Bell operating company and is not owned or controlled by a Bell operating company and that engages in the provision of electronic publishing which is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service.

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"(10) The term 'Bell operating company' has the meaning provided in section 3, except that such term includes any entity or corporation that is owned or controlled by such a company (as so defined) but does not include an electronic publishing joint venture owned by such an entity or corporation.

"SEC. 273. ALARM MONITORING AND TELEMESSAGING SERVICES BY BELL OPERATING COMPANIES.

"(a) DELAYED ENTRY INTO ALARM MONITORING.—

"(1) PROHIBITION.—No Bell operating company or affiliate thereof shall engage in the provision of alarm monitoring services before July 1, 2000.

"(2) EXISTING ACTIVITIES.—Paragraph (1) shall not apply to any provision of alarm monitoring services in which a Bell operating company or affiliate is lawfully engaged on the date of enactment of this part.

"(b) NONDISCRIMINATION.—A common carrier engaged in the provision of alarm monitoring services or telemessaging services shall—

"(1) provide nonaffiliated entities, upon reasonable request, with the network services it provides to its own alarm monitoring or telemessaging oper-

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ations, on nondiscriminatory terms and conditions; and

"(2) not subsidize its alarm monitoring services or its telemessaging services with revenues from telephone exchange service.

"(c) EXPEDITED CONSIDERATION OF COMPLAINTS.—The Commission shall establish procedures for the receipt and review of complaints concerning violations of subsection (b) or the regulations thereunder that result in material financial harm to a provider of alarm monitoring service or telemessaging service. Such procedures shall ensure that the Commission will make a final determination with respect to any such complaint within 120 days after receipt of the complaint. If the complaint contains an appropriate showing that the alleged violation occurred, as determined by the Commission in accordance with such regulations, the Commission shall, within 60 days after receipt of the complaint, order the common carrier and its affiliates to cease engaging in such violation pending such final determination.

"(d) DEFINITIONS.—As used in this section:

"(1) ALARM MONITORING SERVICE.—The term 'alarm monitoring service' means a service that uses a device located at a residence, place of business, or other fixed premises—

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"(A) to receive signals from other devices located at or about such premises regarding a possible threat at such premises to life, safety, or property, from burglary, fire, vandalism, bodily injury, or other emergency, and

"(B) to transmit a signal regarding such threat by means of transmission facilities of a Bell operating company or one of its affiliates to a remote monitoring center to alert a person at such center of the need to inform the customer or another person or police, fire, rescue, security, or public safety personnel of such threat,

but does not include a service that uses a medical monitoring device attached to an individual for the automatic surveillance of an ongoing medical condition.

"(2) TELEMESSAGING SERVICES.—The term 'telemessaging services' means voice mail and voice storage and retrieval services provided over telephone lines for telemessaging customers and any live operator services used to answer, record, transcribe, and relay messages (other than telecommunications relay services) from incoming telephone calls on be-

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half of the telemessaging customers (other than any service incidental to directory assistance).".

SEC. 103. FORBEARANCE FROM REGULATION.

Title II of the Communications Act of 1934 is amended by inserting after section 228 (47 U.S.C. 228) the following new section:

"SEC. 229. FORBEARANCE FROM REGULATION.

"(a) AUTHORITY TO FORBEAR.—The Commission shall forbear from applying any provision of this part or part II (other than sections 201, 202, 208, 243, and 247), or any regulation thereunder, to a common carrier or service, or class of carriers or services, in any or some of its or their geographic markets, if the Commission determines that—

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

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

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

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

SEC. 104. PRIVACY OF CUSTOMER INFORMATION.

(a) PRIVACY OF CUSTOMER PROPRIETARY NETWORK INFORMATION.—Title II of the Communications Act of 1934 is amended by inserting after section 221 (47 U.S.C. 221) the following new section:

"SEC. 222. PRIVACY OF CUSTOMER PROPRIETARY NETWORK INFORMATION.

"(a) SUBSCRIBER LIST INFORMATION.—Notwithstanding subsections (b), (c), and (d), a carrier that provides subscriber list information to any affiliated or unaffiliated service provider or person shall provide subscriber list information on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person upon request.

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"(b) PRIVACY REQUIREMENTS FOR COMMON CARRIERS.—A carrier—

"(1) shall not, except as required by law or with the approval of the customer to which the information relates—

"(A) use customer proprietary network information in the provision of any service except to the extent necessary (i) in the provision of common carrier services, (ii) in the provision of a service necessary to or used in the provision of common carrier services, including the publishing of directories, or (iii) to continue to provide a particular information service that the carrier provided as of May 1, 1995, to persons who were customers of such service on that date;

"(B) use customer proprietary network information in the identification or solicitation of potential customers for any service other than the telephone exchange service or telephone toll service from which such information is derived;

"(C) use customer proprietary network information in the provision of customer premises equipment; or

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"(D) disclose customer proprietary network information to any person except to the extent necessary to permit such person to provide services or products that are used in and necessary to the provision by such carrier of the services described in subparagraph (A);

"(2) shall disclose customer proprietary network information, upon affirmative written request by the customer, to any person designated by the customer;

"(3) shall, whenever such carrier provides any aggregate information, notify the Commission of the availability of such aggregate information and shall provide such aggregate information on reasonable terms and conditions to any other service or equipment provider upon reasonable request therefor; and

"(4) except for disclosures permitted by paragraph (1)(D), shall not unreasonably discriminate between affiliated and unaffiliated service or equipment providers in providing access to, or in the use and disclosure of, individual and aggregate information made available consistent with this subsection.

"(c) RULE OF CONSTRUCTION.—This section shall not be construed to prohibit the use or disclosure of customer proprietary network information as necessary—

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"(1) to render, bill, and collect for the services identified in subparagraph (A);

"(2) to render, bill, and collect for any other service that the customer has requested;

"(3) to protect the rights or property of the carrier;

"(4) to protect users of any of those services and other carriers from fraudulent, abusive, or unlawful use of or subscription to such service; or

"(5) to provide any inbound telemarketing, referral, or administrative services to the customer for the duration of the call if such call was initiated by the customer and the customer approves of the use of such information to provide such service.

"(d) EXEMPTION PERMITTED.—The Commission may, by rule, exempt from the requirements of subsection (b) carriers that have, together with any affiliated carriers, in the aggregate nationwide, fewer than 500,000 access lines installed if the Commission determines that such exemption is in the public interest or if compliance with the requirements would impose an undue economic burden on the carrier.

"(e) DEFINITIONS.—As used in this section:

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"(1) CUSTOMER PROPRIETARY NETWORK INFORMATION.—The term 'customer proprietary network information' means—

"(A) information which relates to the quantity, technical configuration, type, destination, and amount of use of telephone exchange service or telephone toll service subscribed to by any customer of a carrier, and is made available to the carrier by the customer solely by virtue of the carrier-customer relationship;

"(B) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier; and

"(C) such other information concerning the customer as is available to the local exchange carrier by virtue of the customer's use of the carrier's telephone exchange service or telephone toll services, and specified as within the definition of such term by such rules as the Commission shall prescribe consistent with the public interest;

except that such term does not include subscriber list information.

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"(2) SUBSCRIBER LIST INFORMATION.—The term 'subscriber list information' means any information—

"(A) identifying the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses, or primary advertising classifications, or any combination of such listed names, numbers, addresses, or classifications; and

"(B) that the carrier or an affiliate has published or accepted for future publication.".

"(3) AGGREGATE INFORMATION.—The term 'aggregate information' means collective data that relates to a group or category of services or customers, from which individual customer identities and characteristics have been removed.".

(b) CONVERGING COMMUNICATIONS TECHNOLOGIES AND CONSUMER PRIVACY.—

(1) COMMISSION EXAMINATION.—Within one year after the date of enactment of this Act, the Commission shall commence a proceeding—

(A) to examine the impact of the integration into interconnected communications networks of wireless telephone, cable, satellite, and other technologies on the privacy rights and

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remedies of the consumers of those technologies;

(B) to examine the impact that the globalization of such integrated communications networks has on the international dissemination of consumer information and the privacy rights and remedies to protect consumers;

(C) to propose changes in the Commission's regulations to ensure that the effect on consumer privacy rights is considered in the introduction of new telecommunications services and that the protection of such privacy rights is incorporated as necessary in the design of such services or the rules regulating such services;

(D) to propose changes in the Commission's regulations as necessary to correct any defects identified pursuant to subparagraph (A) in such rights and remedies; and

(E) to prepare recommendations to the Congress for any legislative changes required to correct such defects.

(2) SUBJECTS FOR EXAMINATION.—In conducting the examination required by paragraph (1), the Commission shall determine whether consumers are

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able, and, if not, the methods by which consumers may be enabled—

(A) to have knowledge that consumer information is being collected about them through their utilization of various communications technologies;

(B) to have notice that such information could be used, or is intended to be used, by the entity collecting the data for reasons unrelated to the original communications, or that such information could be sold (or is intended to be sold) to other companies or entities; and

(C) to stop the reuse or sale of that information.

(3) SCHEDULE FOR COMMISSION RESPONSES.—The Commission shall, within 18 months after the date of enactment of this Act—

(A) complete any rulemaking required to revise Commission regulations to correct defects in such regulations identified pursuant to paragraph (1); and

(B) submit to the Congress a report containing the recommendations required by paragraph (1)(C).

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SEC. 105. POLE ATTACHMENTS.

Section 224 of the Communications Act of 1934 (47 U.S.C. 244) is amended—

(1) in subsection (a)(4)—

(A) by inserting after "system" the following: "or a provider of telecommunications service"; and

(B) by inserting after "utility" the following: ", which attachment may be used by such cable television system to provide cable service or any other service,";

(2) by redesignating paragraphs (1) and (2) of subsection (b) as paragraphs (2) and (3), respectively;

(3) by inserting before paragraph (2) of subsection (b) (as so redesignated) the following:

"(b)(1) A utility shall provide a cable television system or other provider of telecommunications services with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by the utility.";

(4) in subsection (c)(2)(B), by striking "cable television services" and inserting "the services offered via such attachments";

(5) by redesignating subsection (d)(2) as subsection (d)(4); and

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(6) by striking subsection (d)(1) and inserting the following:

"(d)(1) For purposes of subsection (b) of this section, the Commission shall, no later than 1 year after the date of enactment of the Communication Act of 1995, prescribe regulations for ensuring that utilities charge just and reasonable and nondiscriminatory rates for pole attachments provided to all providers of telecommunications services, including such attachments used by cable television systems to provide telecommunications services (as defined in section 3 of this Act). Such regulations shall—

"(A) apportion the cost of the entire pole, duct, conduit, or right-of-way according to the percentage of usable space required for each entity, and

"(B) allow for reasonable terms and conditions relating to health, safety, and the provision of reliable utility service.

"(2) An entity that obtains an attachment to a pole, conduit, or right-of-way shall not be required to bear any of the costs of rearranging or replacing its attachment, if such rearrangement or replacement is required as a result of an additional attachment or the modification of an existing attachment sought by any other entity (including the owner of such pole, conduct, or right-of-way).

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"(3) Whenever the owner of a conduit or right-of-way has made such conduit or right-of-way accessible, the owner shall provide written notification of such action to any entity that has obtained an attachment to such conduit or right-of-way so that such entity may have a reasonable opportunity to add to or modify its existing attachment. Any entity that adds to or modifies its existing attachment after receiving such notification shall bear an equitable share of the costs incurred by the owner in making such conduit or right-of-way accessible.".

SEC. 106. PREEMPTION OF FRANCHISING AUTHORITY REGULATION OF TELECOMMUNICATIONS SERVICES.

(a) TELECOMMUNICATIONS SERVICES.—Section 621(b) of the Communications Act of 1934 (47 U.S.C. 541(c)) is amended by adding at the end thereof the following new paragraph:

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

"(i) such cable operator or affiliate shall not be required to obtain a franchise under this title; and

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

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"(B) A franchising authority may not impose any requirement that has the purpose or effect of prohibiting, limiting, restricting, or conditioning the provision of a telecommunications service by a cable operator or an affiliate thereof.

"(C) A franchising authority may not order a cable operator or affiliate thereof—

"(i) to discontinue the provision of a telecommunications service, or

"(ii) to discontinue the operation of a cable system, to the extent such cable system is used for the provision of a telecommunications service, by reason of the failure of such cable operator or affiliate thereof to obtain a franchise or franchise renewal under this title with respect to the provision of such telecommunications service.

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

(b) FRANCHISE FEES.—Section 622(b) of the Communications Act of 1934 (47 U.S.C. 542(b)) is amended by inserting "to provide cable services" immediately before the period at the end of the first sentence thereof.

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SEC. 107. MOBILE SERVICE ACCESS TO LONG DISTANCE CARRIERS.

(a) AMENDMENT.—Section 332(c) of the Communications Act of 1934 (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:

"(7) MOBILE SERVICES ACCESS.—(A) The Commission shall prescribe regulations to afford subscribers of two-way switched voice commercial mobile radio services access to a provider of telephone toll service of the subscriber's choice, except to the extent that such provider is engaged in the provision of a mobile satellite service. The Commission may exempt carriers or classes of carriers from the requirements of such regulations to the extent the Commission determines such exemption is consistent with the public interest, convenience, and necessity. For purposes of this paragraph, 'access' shall mean access to a provider of telephone toll service through the use of carrier identification codes assigned to each such provider.

"(B) The regulations prescribed by the Commission pursuant to subparagraph (A) shall supersede any inconsistent requirements imposed by the Modification of Final Judgment or any order in United States v. AT&T Corp. and McCaw Cellular Communications, Inc., Civil Action No. 94-01555

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(United States District Court, District of Columbia).".

(b) EFFECTIVE DATE CONFORMING AMENDMENT.—Section 6002(c)(2)(B) of the Omnibus Budget Reconciliation Act of 1993 is amended by striking "section 332(c)(6)" and inserting "paragraphs (6) and (7) of section 332(c)".

TITLE II—CABLE COMMUNICATIONS COMPETITIVENESS

SEC. 201. CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES.

(a) GENERAL REQUIREMENT.—

(1) AMENDMENT.—Section 613(b) of the Communications Act of 1934 (47 U.S.C. 533(b)) is amended to read as follows:

"(b)(1) Subject to the requirements of part V and the other provisions of this title, any common carrier subject in whole or in part to title II of this Act may, either through its own facilities or through an affiliate, provide video programming directly to subscribers in its telephone service area.

"(2) Subject to the requirements of part V and the other provisions of this title, any common carrier subject in whole or in part to title II of this Act may provide channels of communications or pole, line, or conduit space, or

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other rental arrangements, to any entity which is directly or indirectly owned, operated, or controlled by, or under common control with, such common carrier, if such facilities or arrangements are to be used for, or in connection with, the provision of video programming directly to subscribers in its telephone service area.

"(3) Notwithstanding paragraphs (1) and (2), an affiliate that—

"(A) is, consistent with section 656, owned, operated, or controlled by, or under common control with, a common carrier subject in whole or in part to title II of this Act, and

"(B) provides video programming to subscribers in the telephone service area of such carrier, but

"(C) does not utilize the local exchange facilities or services of any affiliated common carrier in distributing such programming,

shall not be subject to the requirements of part V, but shall be subject to the requirements of this part and parts III and IV.".

(2) CONFORMING AMENDMENT.—Section 602 of the Communications Act of 1934 (47 U.S.C. 531) is amended—

(A) in paragraph (6)(B), by inserting "or use" after "the selection";

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(B) by redesignating paragraphs (18) and (19) as paragraphs (19) and (20) respectively; and

(C) by inserting after paragraph (17) the following new paragraph:

"(18) the term 'telephone service area' when used in connection with a common carrier subject in whole or in part to title II of this Act means the area within which such carrier provides telephone exchange service as of May 1, 1995, but if any common carrier after such date transfers its exchange service facilities to another common carrier, the area to which such facilities provide telephone exchange service shall be treated as part of the telephone service area of the acquiring common carrier and not of the selling common carrier;".

(b) PROVISIONS FOR REGULATION OF CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES.—Title VI of the Communications Act of 1934 (47 U.S.C. 521 et seq.) is amended by adding at the end the following new part:

"PART V—VIDEO PROGRAMMING SERVICES PROVIDED BY TELEPHONE COMPANIES

"SEC. 651. DEFINITIONS.

"For purposes of this part—

"(1) the term 'control' means—

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"(A) an ownership interest in which an entity has the right to vote more than 50 percent of the outstanding common stock or other ownership interest; or

"(B) if no single entity directly or indirectly has the right to vote more than 50 percent of the outstanding common stock or other ownership interest, actual working control, in whatever manner exercised, as defined by the Commission by regulation on the basis of relevant factors and circumstances, which shall include partnership and direct ownership interests, voting stock interests, the interests of officers and directors, and the aggregation of voting interests; and

"(2) the term 'rural area' means a geographic area that does not include either—

"(A) any incorporated or unincorporated place of 10,000 inhabitants or more, or any part thereof; or

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

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"SEC. 652. SEPARATE VIDEO PROGRAMMING AFFILIATE.

"(a) IN GENERAL.—Except as provided in subsection (d) of this section, a common carrier subject to title II of this Act shall not provide video programming directly to subscribers in its telephone service area unless such video programming is provided through a video programming affiliate that is separate from such carrier.

"(b) BOOKS AND MARKETING.—

"(1) IN GENERAL.—A video programming affiliate of a common carrier shall—

"(A) maintain books, records, and accounts separate from such carrier which identify all transactions with such carrier;

"(B) carry out directly (or through any nonaffiliated person) its own promotion, except that institutional advertising carried out by such carrier shall be permitted so long as each party bears its pro rata share of the costs; and

"(C) not own real or personal property in common with such carrier.

"(2) INBOUND TELEMARKETING AND REFERRAL.—Notwithstanding paragraph (1)(B), a common carrier may provide telemarketing or referral services in response to the call of a customer or potential customer related to the provision of video programming by a video programming affiliate of

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such carrier. If such services are provided to a video programming affiliate, such services shall be made available to any video programmer or cable operator on request, on nondiscriminatory terms, at just and reasonable prices, and subject to regulations of the Commission to ensure that the carrier's method of providing telemarketing or referral and its price structure do not competitively disadvantage any video programmer or cable operator, regardless of size, including those which do not use the carrier's telemarketing services.

"(3) JOINT MARKETING.—Notwithstanding paragraph (1)(B), a common carrier may market video programming directly upon a showing to the Commission that a cable operator or other entity directly or indirectly provides telecommunications services within the telephone service area of the common carrier, and markets such telecommunications services jointly with video programming services. The common carrier shall specify the geographic region covered by the showing. The Commission shall approve or disapprove such showing within 60 days after the date of its submission.

"(c) BUSINESS TRANSACTIONS WITH CARRIER.—Any contract, agreement, arrangement, or other manner

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of conducting business, between a common carrier and its video programming affiliate, providing for—

"(1) the sale, exchange, or leasing of property between such affiliate and such carrier,

"(2) the furnishing of goods or services between such affiliate and such carrier, or

"(3) the transfer to or use by such affiliate for its benefit of any asset or resource of such carrier,

shall be on a fully compensatory and auditable basis, shall be without cost to the telephone service ratepayers of the carrier, shall be filed with the Commission, and shall be in compliance with regulations established by the Commission that will enable the Commission to assess the compliance of any transaction.

"(d) WAIVER.—

"(1) CRITERIA FOR WAIVER.—The Commission may waive any of the requirements of this section for small telephone companies or telephone companies serving rural areas, if the Commission determines, after notice and comment, that—

"(A) such waiver will not affect the ability of the Commission to ensure that all video programming activity is carried out without any support from telephone ratepayers;

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"(B) the interests of telephone ratepayers and cable subscribers will not be harmed if such waiver is granted;

"(C) such waiver will not adversely affect the ability of persons to obtain access to the video platform of such carrier; and

"(D) such waiver otherwise is in the public interest.

"(2) DEADLINE FOR ACTION.—The Commission shall act to approve or disapprove a waiver application within 180 days after the date it is filed.

"(3) CONTINUED APPLICABILITY OF SECTION 656.—In the case of a common carrier that obtains a waiver under this subsection, any requirement that section 656 applies to a video programming affiliate shall instead apply to such carrier.

"(e) SUNSET OF REQUIREMENTS.—The provisions of this section shall cease to be effective on July 1, 2000.

"SEC. 653. ESTABLISHMENT OF VIDEO PLATFORM.

"(a) VIDEO PLATFORM.—

"(1) IN GENERAL.—Any common carrier subject to title II of this Act, and that provides video programming directly to subscribers in its telephone service area, shall establish a video platform. This paragraph shall not apply to any carrier to the ex-

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tent that it provides video programming directly to subscribers in its telephone service area solely through a cable system acquired in accordance with section 655(b).

"(2) IDENTIFICATION OF DEMAND FOR CARRIAGE.—Any common carrier subject to the requirements of paragraph (1) shall, prior to establishing a video platform, submit a notice to the Commission of its intention to establish channel capacity for the provision of video programming to meet the bona fide demand for such capacity. Such notice shall—

"(A) be in such form and contain information concerning the geographic area intended to be served and such information as the Commission may require by regulations pursuant to subsection (b);

"(B) specify the methods by which any entity seeking to use such channel capacity should submit to such carrier a specification of its channel capacity requirements; and

"(C) specify the procedures by which such carrier will determine (in accordance with the Commission's regulations under subsection (b)(1)(B)) whether such requests for capacity are bona fide.

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The Commission shall submit any such notice for publication in the Federal Register within 5 working days.

"(3) RESPONSE TO REQUEST FOR CARRIAGE.—After receiving and reviewing the requests for capacity submitted pursuant to such notice, such common carrier shall establish channel capacity that is sufficient to provide carriage for—

"(A) all bona fide requests submitted pursuant to such notice,

"(B) any additional channels required pursuant to section 656, and

"(C) any additional channels required by the Commission's regulations under subsection (b)(1)(C).

"(4) RESPONSES TO CHANGES IN DEMAND FOR CAPACITY.—Any common carrier that establishes a video platform under this section shall—

"(A) immediately notify the Commission and each video programming provider of any delay in or denial of channel capacity or service, and the reasons therefor;

"(B) continue to receive and grant, to the extent of available capacity, carriage in response to bona fide requests for carriage from

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existing or additional video programming providers;

"(C) if at any time the number of channels required for bona fide requests for carriage may reasonably be expected soon to exceed the existing capacity of such video platform, immediately notify the Commission of such expectation and of the manner and date by which such carrier will provide sufficient capacity to meet such excess demand; and

"(D) construct such additional capacity as may be necessary to meet such excess demand.

"(5) DISPUTE RESOLUTION.—The Commission shall have the authority to resolve disputes under this section and the regulations prescribed thereunder. Any such dispute shall be resolved within 180 days after notice of such dispute is submitted to the Commission. At that time or subsequently in a separate damages proceeding, the Commission may award damages sustained in consequence of any violation of this section to any person denied carriage, or require carriage, or both. Any aggrieved party may seek any other remedy available under this Act.

"(b) COMMISSION ACTIONS.—

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"(1) IN GENERAL.—Within 15 months after the date of the enactment of this section, the Commission shall complete all actions necessary (including any reconsideration) to prescribe regulations that—

"(A) consistent with the requirements of section 656, prohibit a common carrier from discriminating among video programming providers with regard to carriage on its video platform, and ensure that the rates, terms, and conditions for such carriage are just, reasonable, and nondiscriminatory;

"(B) prescribe definitions and criteria for the purposes of determining whether a request shall be considered a bona fide request for purposes of this section;

"(C) permit a common carrier to carry on only one channel any video programming service that is offered by more than one video programming provider (including the common carrier's video programming affiliate), provided that subscribers have ready and immediate access to any such video programming service;

"(D) establish a requirement that video platforms contain a suitable margin of unused

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channel capacity to meet reasonable growth in bona fide demand for such capacity;

"(E) extend to the distribution of video programming over video platforms the Commission's regulations concerning network nonduplication (47 C.F.R. 76.92 et seq.) and syndicated exclusivity (47 C.F.R. 76.151 et seq.);

"(F) require the video platform to provide service, transmission, interconnection, and interoperability for unaffiliated or independent video programming providers that is equivalent to that provided to the common carrier's video programming affiliate, except that the video platform shall not discriminate between analog and digital video programming offered by such unaffiliated or independent video programming providers;

"(G)(i) prohibit a common carrier from discriminating among video programming providers with regard to material or information provided by the common carrier to subscribers for the purposes of selecting programming on the video platform, or in the way such material or information is presented to subscribers;

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"(ii) require a common carrier to ensure that video programming providers or copyright holders (or both) are able suitably and uniquely to identify their programming services to subscribers; and

"(iii) if such identification is transmitted as part of the programming signal, require the carrier to transmit such identification without change or alteration; and

"(H) prohibit a common carrier from excluding areas from its video platform service area on the basis of the ethnicity, race, or income of the residents of that area, and provide for public comments on the adequacy of the proposed service area on the basis of the standards set forth under this subparagraph.

"(2) APPLICABILITY TO OTHER HIGH CAPACITY SYSTEMS.—The Commission shall apply the requirements of this section, in lieu of the requirements of section 612, to any cable operator of a cable system that has installed a switched, broadband video programming delivery system, except that the Commission shall not apply the requirements of the regulations prescribed pursuant to subsection (b)(1)(D) or

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any other requirement that the Commission determines is inappropriate.

"(c) REGULATORY STREAMLINING.—With respect to the establishment and operation of a video platform, the requirements of this section shall apply in lieu of, and not in addition to, the requirements of title II.

"(d) COMMISSION INQUIRY.—The Commission shall conduct a study of whether it is in the public interest to extend the requirements of subsection (a) to any other cable operators in lieu of the requirements of section 612. The Commission shall submit to the Congress a report on the results of such study not later than 2 years after the date of enactment of this section.

"SEC. 654. AUTHORITY TO PROHIBIT CROSS-SUBSIDIZATION.

"Nothing in this part shall prohibit a State commission that regulates the rates for telephone exchange service or exchange access based on the cost of providing such service or access from—

"(1) prescribing regulations to prohibit a common carrier from engaging in any practice that results in the inclusion in rates for telephone exchange service or exchange access of any operating expenses, costs, depreciation charges, capital investments, or other expenses directly associated with the

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provision of competing video programming services by the common carrier or affiliate; or

"(2) ensuring such competing video programming services bear a reasonable share of the joint and common costs of facilities used to provide telephone exchange service or exchange access and competing video programming services.

"SEC. 655. PROHIBITION ON BUY OUTS.

"(a) GENERAL PROHIBITION.—No common carrier that provides telephone exchange service, and no entity owned by or under common ownership or control with such carrier, may purchase or otherwise obtain control over any cable system that is located within its telephone service area and is owned by an unaffiliated person.

"(b) EXCEPTIONS.—Notwithstanding subsection (a), a common carrier may—

"(1) obtain a controlling interest in, or form a joint venture or other partnership with, a cable system that serves a rural area;

"(2) obtain, in addition to any interest, joint venture, or partnership obtained or formed pursuant to paragraph (1), a controlling interest in, or form a joint venture or other partnership with, any cable system or systems if—

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"(A) such systems in the aggregate serve less than 10 percent of the households in the telephone service area of such carrier; and

"(B) no such system serves a franchise area with more than 35,000 inhabitants, except that a common carrier may obtain such interest or form such joint venture or other partnership with a cable system that serves a franchise area with more than 35,000 but not more than 50,000 inhabitants if such system is not affiliated with any other system whose franchise area is contiguous to the franchise area of the acquired system;

"(3) obtain, with the concurrence of the cable operator on the rates, terms, and conditions, the use of that part of the transmission facilities of such a cable system extending from the last multi-user terminal to the premises of the end user, if such use is reasonably limited in scope and duration, as determined by the Commission; or

"(4) obtain a controlling interest in, or form a joint venture or other partnership with, or provide financing to, a cable system (hereinafter in this paragraph referred to as 'the subject cable system'), if—

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"(A) the subject cable system operates in a television market that is not in the top 25 markets, and that has more than 1 cable system operator, and the subject cable system is not the largest cable system in such television market;

"(B) the subject cable system and the largest cable system in such television market held on May 1, 1995, cable television franchises from the largest municipality in the television market and the boundaries of such franchises were identical on such date;

"(C) the subject cable system is not owned by or under common ownership or control of any one of the 50 largest cable system operators as existed on May 1, 1995; and

"(D) the largest system in the television market is owned by or under common ownership or control of any one of the 10 largest cable system operators as existed on May 1, 1995.

"(c) WAIVER.—

"(1) CRITERIA FOR WAIVER.—The Commission may waive the restrictions in subsection (a) of this section only upon a showing by the applicant that—

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"(A) because of the nature of the market served by the cable system concerned—

"(i) the incumbent cable operator would be subjected to undue economic distress by the enforcement of such subsection; or

"(ii) the cable system would not be economically viable if such subsection were enforced; and

"(B) the local franchising authority approves of such waiver.

"(2) DEADLINE FOR ACTION.—The Commission shall act to approve or disapprove a waiver application within 180 days after the date it is filed.

"SEC. 656. APPLICABILITY OF PARTS I THROUGH IV.

"(a) IN GENERAL.—Any provision that applies to a cable operator under—

"(1) sections 613, 616, 617, 628, 631, 632, and 634 of this title, shall apply,

"(2) sections 611, 612, 614, and 615 of this title, and section 325 of title III, shall apply in accordance with the regulations prescribed under subsection (b), and

"(3) parts III and IV (other than sections 628, 631, 632, and 634) of this title shall not apply,

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to any video programming affiliate established by a common carrier in accordance with the requirements of this part.

"(b) IMPLEMENTATION.—

"(1) COMMISSION ACTION.—The Commission shall prescribe regulations to ensure that a common carrier in the operation of its video platform shall provide (A) capacity, services, facilities, and equipment for public, educational, and governmental use, (B) capacity for commercial use, (C) carriage of commercial and non-commercial broadcast television stations, and (D) an opportunity for commercial broadcast stations to choose between mandatory carriage and reimbursement for retransmission of the signal of such station. In prescribing such regulations, the Commission shall, to the extent possible, impose obligations that are no greater or lesser than the obligations contained in the provisions described in subsection (a)(2) of this section.

"(2) FEES.—A video programming affiliate of any common carrier that establishes a video platform under this part, and any multichannel video programming distributor offering a competing service using such video platform (as determined in accordance with regulations of the Commission), shall

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be subject to the payment of fees imposed by a local franchising authority, in lieu of the fees required under section 622. The rate at which such fees are imposed shall not exceed the rate at which franchise fees are imposed on any cable operator transmitting video programming in the same service area.

"SEC. 657. RURAL AREA EXEMPTION.

"The provisions of sections 652, 653, and 655 shall not apply to video programming provided in a rural area by a common carrier that provides telephone exchange service in the same area.".

SEC. 202. COMPETITION FROM CABLE SYSTEMS.

(a) DEFINITION OF CABLE SERVICE.—Section 602(6)(B) of the Communications Act of 1934 (47 U.S.C. 522(6)(B)) is amended by inserting "or use" after "the selection".

(b) CLUSTERING.—Section 613 of the Communications Act of 1934 (47 U.S.C. 533) is amended by adding at the end the following new subsection:

"(i) ACQUISITION OF CABLE SYSTEMS.—The Commission may not require divestiture of, or restrict or prevent the acquisition of, an ownership interest in a cable system by any person based in whole or in part on the geographic location of such cable system.".

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(c) EQUIPMENT.—Section 623(a) of the Communications Act of 1934 (47 U.S.C. 543(a)) is amended—

(1) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) EQUIPMENT.—If the Commission finds that a cable system is subject to effective competition under subparagraph (D) of subsection (l)(1), the rates for equipment, installations, and connections for additional television receivers (other than equipment, installations, and connections furnished by such system to subscribers who receive only a rate regulated basic service tier) shall not be subject to regulation by the Commission or by a State or franchising authority. If the Commission finds that a cable system is subject to effective competition under subparagraph (A), (B), or (C) of subsection (*l*)(1), the rates for any equipment, installations, and connections furnished by such system to any subscriber shall not be subject to regulation by the Commission, or by a State or franchising authority. No Federal agency, State, or franchising authority may establish the price or rate for the installation, sale, or lease of any equipment furnished to any sub-

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scriber by a cable system solely in connection with video programming offered on a per channel or per program basis.".

(d) LIMITATION ON BASIC TIER RATE INCREASES; SCOPE OF REVIEW.—Section 623(a) of the Communications Act of 1934 (47 U.S.C. 543(a)) is further amended by adding at the end the following new paragraph:

"(8) LIMITATION ON BASIC TIER RATE INCREASES; SCOPE OF REVIEW.—A cable operator may not increase its basic service tier rate more than once every 6 months. Such increase may be implemented, using any reasonable billing or proration method, 30 days after providing notice to subscribers and the appropriate regulatory authority. The rate resulting from such increase shall be deemed reasonable and shall not be subject to reduction or refund if the franchising authority or the Commission, as appropriate, does not complete its review and issue a final order within 90 days after implementation of such increase. The review by the franchising authority or the Commission of any future increase in such rate shall be limited to the incremental change in such rate effected by such increase.".

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(e) NATIONAL INFORMATION INFRASTRUCTURE DEVELOPMENT.—Section 623(a) of the Communications Act of 1934 (47 U.S.C. 543) is further amended by adding at the end the following new paragraph:

"(9) NATIONAL INFORMATION INFRASTRUCTURE.—

"(A) PURPOSE.—It is the purpose of this paragraph to—

"(i) promote the development of the National Information Infrastructure;

"(ii) enhance the competitiveness of the National Information Infrastructure by ensuring that cable operators have incentives comparable to other industries to develop such infrastructure; and

"(iii) encourage the rapid deployment of digital technology necessary to the development of the National Information Infrastructure.

"(B) AGGREGATION OF EQUIPMENT COSTS.—The Commission shall allow cable operators, pursuant to any rules promulgated under subsection (b)(3), to aggregate, on a franchise, system, regional, or company level, their equipment costs into broad categories,

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such as converter boxes, regardless of the varying levels of functionality of the equipment within each such broad category. Such aggregation shall not be permitted with respect to equipment used by subscribers who receive only a rate regulated service tier.

"(C) REVISION TO COMMISSION RULES; FORMS.—Within 90 days of the date of enactment of this paragraph, the Commission shall issue revisions to the appropriate rules and forms necessary to implement subparagraph (B).".

(f) COMPLAINT THRESHOLD; SCOPE OF COMMISSION REVIEW.—Section 623(c) of the Communications Act of 1934 (47 U.S.C. 543(c)) is amended—

(1) by striking paragraph (3) and inserting the following:

"(3) REVIEW OF COMPLAINTS.—

"(A) COMPLAINT THRESHOLD.—The Commission shall have the authority to review any increase in the rates for cable programming services implemented after the date of enactment of the Communications Act of 1995 only if, within 90 days after such increase becomes effective, at least 10 subscribers to such serv-

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ices or 5 percent of the subscribers to such services, whichever is greater, file separate, individual complaints against such increase with the Commission in accordance with the requirements established under paragraph (1)(B).

"(B) TIME PERIOD FOR COMMISSION REVIEW.—The Commission shall complete its review of any such increase and issue a final order within 90 days after it receives the number of complaints required by subparagraph (A).

"(4) TREATMENT OF PENDING CABLE PROGRAMMING SERVICES COMPLAINTS.—Upon enactment of the Communications Act of 1995, the Commission shall suspend the processing of all pending cable programming services rate complaints. These pending complaints shall be counted by the Commission toward the complaint threshold specified in paragraph (3)(A). Parties shall have an additional 90 days from the date of enactment of such Act to file complaints about prior increases in cable programming services rates if such rate increases were already subject to a valid, pending complaint on the date of enactment. At the expiration of such 90-day period, the Commission shall dismiss all pending

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cable programming services rate cases for which the complaint threshold has not been met, and may resume its review of those pending cable programming services rate cases for which the complaint threshold has been met, which review shall be completed within 180 days after the date of the Communications Act of 1995.

"(5) SCOPE OF COMMISSION REVIEW.—A cable programming services rate shall be deemed not unreasonable and shall not be subject to reduction or refund if—

"(A) such rate was not the subject of a pending complaint at the time of enactment of the Communications Act of 1995;

"(B) such rate was the subject of a complaint that was dismissed pursuant to paragraph (4);

"(C) such rate resulted from an increase for which the complaint threshold specified in paragraph (3)(A) has not been met;

"(D) the Commission does not complete its review and issue a final order in the time period specified in paragraph (3)(B) or (4); or

"(E) the Commission issues an order finding such rate to be not unreasonable.

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The review by the Commission of any future increase in such rate shall be limited to the incremental change in such rate effected by such increase.";

(2) in paragraph (1)(B) by striking "obtain Commission consideration and resolution of whether the rate in question is unreasonable" and inserting "be counted toward the complaint threshold specified in paragraph (3)(A)"; and

(3) in paragraph (1)(C) by striking "such complaint" and inserting in lieu thereof "the first complaint".

(g) UNIFORM RATE STRUCTURE.—Section 623(d) of the Communications Act of 1934 (47 U.S.C. 543(d)) is amended to read as follows:

"(d) UNIFORM RATE STRUCTURE.—A cable operator shall have a uniform rate structure throughout its franchise area for the provision of cable services that are regulated by the Commission or the franchising authority. Bulk discounts to multiple dwelling units shall not be subject to this requirement.".

(h) EFFECTIVE COMPETITION.—Section 623(l)(1) of the Communications Act of 1934 (47 U.S.C. 543(l)(1)) is amended—

(1) in subparagraph (B)(ii)—

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(A) by inserting "all" before "multichannel video programming distributors"; and

(B) by striking "or" at the end thereof;

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

(3) by adding at the end the following:

"(D) with respect to cable programming services and subscriber equipment, installations, and connections for additional television receivers (other than equipment, installations, and connections furnished to subscribers who receive only a rate regulated basic service tier)—

"(i) a common carrier has been authorized by the Commission to construct facilities to provide video dialtone service in a cable operator's franchise area;

"(ii) a common carrier has been authorized by the Commission or pursuant to a franchise to provide video programming directly to subscribers in the franchise area; or

"(iii) the Commission has completed all actions necessary (including any reconsideration) to prescribe regulations pursu-

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ant to section 653(b)(1) relating to video platforms.".

(i) RELIEF FOR CABLE OPERATORS.—Section 623 of the Communications Act of 1934 (47 U.S.C. 543) is amended by adding at the end the following new subsection:

"(m) SMALL CABLE OPERATORS.—

"(1) SMALL CABLE OPERATOR RELIEF.—A small cable operator shall not be subject to subsections (a), (b), (c), or (d) in any franchise area with respect to the provision of cable programming services, or a basic service tier where such tier was the only tier offered in such area on December 31, 1994.

"(2) DEFINITION OF SMALL CABLE OPERATOR.—For purposes of this subsection, 'small cable operator' means a cable operator that—

"(A) directly or through an affiliate, serves in the aggregate fewer than 1 percent of all cable subscribers in the United States; and

"(B) is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.".

(j) TECHNICAL STANDARDS.—Section 624(e) of the Communications Act of 1934 (47 U.S.C. 544(e)) is

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amended by striking the last two sentences and inserting the following: "No State or franchising authority may prohibit, condition, or restrict a cable system's use of any type of subscriber equipment or any transmission technology.".

(k) CABLE SECURITY SYSTEMS.—Section 624A(b)(2) of the Communications Act of 1934 (47 U.S.C. 544a(b)(2)) is amended to read as follows:

"(2) CABLE SECURITY SYSTEMS.—No federal agency, State, or franchising authority may prohibit or limit a cable operator's use of any security system (including scrambling, encryption, traps, and interdiction), except that the Commission may prohibit or limit the use of any such system solely with respect to the delivery of a basic service tier that, as of January 1, 1995, contained only the signals and programming specified in section 623(b)(7)(A), unless the use of such system is necessary to prevent the unauthorized reception of such tier.".

(l) RETIERING OF BASIC TIER SERVICES.—Section 625(d) of the Communications Act of 1934 (47 U.S.C. 543(d)) is amended by adding at the end the following new sentence: "Any signals or services carried on the basic service tier but not required under section 623(b)(7)(A) may be moved from the basic service tier at the operator's sole discretion, except to the extent that the removal of

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such a signal or service from the basic service tier is prohibited by contract. The movement of such signals or services to an unregulated package of services shall not subject such package to regulation.".

(m) SUBSCRIBER NOTICE.—Section 632 of the Communications Act of 1934 (47 U.S.C. 552) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) SUBSCRIBER NOTICE.—A cable operator may provide notice of service and rate changes to subscribers using any reasonable written means at its sole discretion. Notwithstanding section 623(b)(6) or any other provision of this Act, a cable operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State, or franchising authority on the transaction between the operators and subscriber.".

SEC. 203. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES.

Title VII of the Communications Act of 1934 is amended by adding at the end the following new section:

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"SEC. 713. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES.

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

"(1) The term 'telecommunications subscription service' means the provision directly to subscribers of video, voice, or data services for which a subscriber charge is made.

"(2) The term 'telecommunications system' or a 'telecommunications system operator' means a provider of telecommunications subscription service.

"(b) COMPETITIVE CONSUMER AVAILABILITY OF CUSTOMER PREMISES EQUIPMENT.—The Commission shall adopt regulations to assure competitive availability, to consumers of telecommunications subscription services, of converter boxes, interactive communications devices, and other customer premises equipment from manufacturers, retailers, and other vendors not affiliated with any telecommunications system operator. 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 service. Such regulations shall not prohibit any telecommunications system operator from also offering devices and customer premises equipment to consumers, provided that the system operator's charges to consumers for such devices and equipment are separately stated and not bundled

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with or subsidized by charges for any telecommunications subscription service.

"(c) WAIVER FOR NEW NETWORK SERVICES.—The Commission may waive a regulation adopted pursuant to subsection (b) for a limited time upon an appropriate showing by a telecommunications system operator that such waiver is necessary to the introduction of a new telecommunications subscription service.

"(d) SUNSET.—The regulations adopted pursuant to this section shall be terminated when the Commission determines that there exists a fully competitive market for the acquisition of converter boxes, interactive communications devices, and other customer premises equipment.".

SEC. 204. VIDEO PROGRAMMING ACCESSIBILITY.

(a) COMMISSION INQUIRY.—Within 180 days after the date of enactment of this section, the Federal Communications Commission shall complete an inquiry to ascertain the level at which video programming is closed captioned. Such inquiry shall examine the extent to which existing or previously published programming is closed captioned, the size of the video programming provider or programming owner providing closed captioning, the size of the market served, the relative audience shares achieved, or any other related factors. The Commission shall submit to the Congress a report on the results of such inquiry.

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(b) ACCOUNTABILITY CRITERIA.—Within 18 months after the date of enactment, the Commission shall prescribe such regulations as are necessary to implement this section. Such regulations shall ensure that—

(1) video programming first published or exhibited after the effective date of such regulations is fully accessible through the provision of closed captions, except as provided in subsection (d); and

(2) video programming providers or owners maximize the accessibility of video programming first published or exhibited prior to the effective date of such regulations through the provision of closed captions, except as provided in subsection (d).

(c) DEADLINES FOR CAPTIONING.—Such regulations shall include an appropriate schedule of deadlines for the provision of closed captioning of video programming.

(d) EXEMPTIONS.—Notwithstanding subsection (b)—

(1) the Commission may exempt by regulation programs, classes of programs, or services for which the Commission has determined that the provision of closed captioning would be economically burdensome to the provider or owner of such programming;

(2) a provider of video programming or the owner of any program carried by the provider shall

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not be obligated to supply closed captions if such action would be inconsistent with contracts in effect on the date of enactment of this Act, except that nothing in this section shall be construed to relieve a video programming provider of its obligations to provide services required by Federal law; and

(3) a provider of video programming or program owner may petition the Commission for an exemption from the requirements of this section, and the Commission may grant such petition upon a showing that the requirements contained in this section would result in an undue burden.

(e) UNDUE BURDEN.—The term 'undue burden' means significant difficulty or expense. In determining whether the closed captions necessary to comply with the requirements of this paragraph would result in an undue economic burden, the factors to be considered include—

(1) the nature and cost of the closed captions for the programming;

(2) the impact on the operation of the provider or program owner;

(3) the financial resources of the provider or program owner; and

(4) the type of operations of the provider or program owner.

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(f) VIDEO DESCRIPTIONS INQUIRY.—Within 6 months after the date of enactment of this Act, the Commission shall commence an inquiry to examine the use of video descriptions on video programming in order to ensure the accessibility of video programming to persons with visual impairments, and report to Congress on its findings. The Commission's report shall assess appropriate methods and schedules for phasing video descriptions into the marketplace, technical and quality standards for video descriptions, a definition of programming for which video descriptions would apply, and other technical and legal issues that the Commission deems appropriate. Following the completion of such inquiry, the Commission may adopt regulation it deems necessary to promote the accessibility of video programming to persons with visual impairments.

(g) VIDEO DESCRIPTION.—For purposes of this section, "video description" means the insertion of audio narrated descriptions of a television program's key visual elements into natural pauses between the program's dialogue.

SEC. 205. TECHNICAL AMENDMENTS.

(a) RETRANSMISSION.—Section 325(b)(2)(D) of the Communications Act of 1934 (47 U.S.C. 325(b)(2)(D)) is amended to read as follows:

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"(D) retransmission by a cable operator or other multichannel video programming distributor of the signal of a superstation if (i) the customers served by the cable operator or other multichannel video programming distributor reside outside the originating station's television market, as defined by the Commission for purposes of section 614(h)(1)(C); (ii) such signal was obtained from a satellite carrier or terrestrial microwave common carrier; and (iii) and the origination station was a superstation on May 1, 1991.".

(b) MARKET DETERMINATIONS.—Section 614(h)(1)(C)(i) of the Communications Act of 1934 (47 U.S.C. 534(h)(1)(C)(i)) is amended by striking out "in the manner provided in section 73.3555(d)(3)(i) of title 47, Code of Federal Regulations, as in effect on May 1, 1991," and inserting "by the Commission by regulation or order using, where available, commercial publications which delineate television markets based on viewing patterns,".

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TITLE III—BROADCAST COMMUNICATIONS COMPETITIVENESS

SEC. 301. BROADCASTER SPECTRUM FLEXIBILITY.

Title III of the Communications Act of 1934 is amended by inserting after section 335 (47 U.S.C. 335) the following new section:

"SEC. 336. BROADCAST SPECTRUM FLEXIBILITY.

"(a) COMMISSION ACTION.—If the Commission determines to issue additional licenses for advanced television services, the Commission shall—

"(1) limit the initial eligibility for such licenses to persons that, as of the date of such issuance, are licensed to operate a television broadcast station or hold a permit to construct such a station (or both); and

"(2) adopt regulations that allow such licensees or permittees to offer such ancillary or supplementary services on designated frequencies as may be consistent with the public interest, convenience, and necessity.

"(b) CONTENTS OF REGULATIONS.—In prescribing the regulations required by subsection (a), the Commission shall—

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"(1) only permit such licensee or permittee to offer ancillary or supplementary services if the use of a designated frequency for such services is consistent with the technology or method designated by the Commission for the provision of advanced television services;

"(2) limit the broadcasting of ancillary or supplementary services on designated frequencies so as to avoid derogation of any advanced television services, including high definition television broadcasts, that the Commission may require using such frequencies;

"(3) apply to any other ancillary or supplementary service such of the Commission's regulations as are applicable to the offering of analogous services by any other person;

"(4) adopt such technical and other requirements as may be necessary or appropriate to assure the quality of the signal used to provide advanced television services, and may adopt regulations that stipulate the minimum number of hours per day that such signal must be transmitted; and

"(5) prescribe such other regulations as may be necessary for the protection of the public interest, convenience, and necessity.

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"(c) RECOVERY OF LICENSE.—

"(1) CONDITIONS REQUIRED.—If the Commission grants a license for advanced television services to a person that, as of the date of such issuance, is licensed to operate a television broadcast station or holds a permit to construct such a station (or both), the Commission shall, as a condition of such license, require that, upon a determination by the Commission pursuant to the regulations prescribed under paragraph (2), either the additional license or the original license held by the licensee be surrendered to the Commission in accordance with such regulations for reallocation or reassignment (or both) pursuant to Commission regulation.

"(2) CRITERIA.—The Commission shall prescribe criteria for rendering determinations concerning license surrender pursuant to license conditions required by paragraph (1). Such criteria shall—

"(A) require such determinations to be based on whether the substantial majority of the public have obtained television receivers that are capable of receiving advanced television services; and

"(B) not require the cessation of the broadcasting under either the original or addi-

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tional license if such cessation would render the television receivers of a substantial portion of the public useless, or otherwise cause undue burdens on the owners of such television receivers.

"(d) FEES.—

"(1) SERVICES TO WHICH FEES APPLY.—If the regulations prescribed pursuant to subsection (a) permit a licensee to offer ancillary or supplementary services on a designated frequency—

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

"(B) for which the licensee directly or indirectly receives compensation from a third party in return for transmitting material furnished by such third party (other than commercial advertisements used to support broadcasting for which a subscription fee is not required),

the Commission shall establish a program to assess and collect from the licensee for such designated frequency an annual fee or other schedule or method of payment that promotes the objectives described in subparagraphs (A) and (B) of paragraph (2).

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"(2) COLLECTION OF FEES.—The program required by paragraph (1) shall—

"(A) be designed (i) to recover for the public a portion of the value of the public spectrum resource made available for such commercial use, and (ii) to avoid unjust enrichment through the method employed to permit such uses of that resource;

"(B) recover for the public an amount that, to the extent feasible, equals but does not exceed (over the term of the license) the amount that would have been recovered had such services been licensed pursuant to the provisions of section 309(j) of this Act and the Commission's regulations thereunder; and

"(C) be adjusted by the Commission from time to time in order to continue to comply with the requirements of this paragraph.

"(3) TREATMENT OF REVENUES.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), all proceeds obtained pursuant to the regulations required by this subsection shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code.

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"(B) RETENTION OF REVENUES.—Notwithstanding subparagraph (A), the salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by this section and regulating and supervising advanced television services. Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis.

"(4) REPORT.—Within 5 years after the date of the enactment of this section, the Commission shall report to the Congress on the implementation of the program required by this subsection, and shall annually thereafter advise the Congress on the amounts collected pursuant to such program.

"(e) EVALUATION.—Within 10 years after the date the Commission first issues additional licenses for advanced television services, the Commission shall conduct an evaluation of the advanced television services program. Such evaluation shall include—

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"(1) an assessment of the willingness of consumers to purchase the television receivers necessary to receive broadcasts of advanced television services;

"(2) an assessment of alternative uses, including public safety use, of the frequencies used for such broadcasts; and

"(3) the extent to which the Commission has been or will be able to reduce the amount of spectrum assigned to licensees in order to issue additional licenses for the provision of advanced television services.

"(f) DEFINITIONS.—As used in this section:

"(1) ADVANCED TELEVISION SERVICES.—The term 'advanced television services' means television services provided using digital or other advanced technology to enhance audio quality and video resolution, as further defined in the opinion, report, and order of the Commission entitled 'Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service', MM Docket 87-268, adopted September 17, 1992, and successor proceedings.

"(2) DESIGNATED FREQUENCIES.—The term 'designated frequency' means each of the frequencies

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designated by the Commission for licenses for advanced television services.

"(3) HIGH DEFINITION TELEVISION.—The term 'high definition television' refers to systems that offer approximately twice the vertical and horizontal resolution of receivers generally available on the date of enactment of this section, as further defined in the proceedings described in paragraph (1) of this subsection.".

SEC. 302. TERM OF LICENSES.

Section 307(c) of the Communications Act of 1934 (47 U.S.C. 307(c)) is amended to read as follows:

"(c) TERMS OF LICENSES.—

"(1) INITIAL AND RENEWAL LICENSES.—Each license granted for the operation of a broadcasting station shall be for a term of not to exceed seven years. Upon application therefor, a renewal of such license may be granted from time to time for a term of not to exceed seven years from the date of expiration of the preceding license, if the Commission finds that public interest, convenience, and necessity would be served thereby. Consistent with the foregoing provisions of this subsection, the Commission may by rule prescribe the period or periods for which licenses shall be granted and renewed for par-

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ticular classes of stations, but the Commission may not adopt or follow any rule which would preclude it, in any case involving a station of a particular class, from granting or renewing a license for a shorter period than that prescribed for stations of such class if, in its judgment, public interest, convenience, or necessity would be served by such action.

"(2) MATERIALS IN APPLICATION.—In order to expedite action on applications for renewal of broadcasting station licenses and in order to avoid needless expense to applicants for such renewals, the Commission shall not require any such applicant to file any information which previously has been furnished to the Commission or which is not directly material to the considerations that affect the granting or denial of such application, but the Commission may require any new or additional facts it deems necessary to make its findings.

"(3) CONTINUATION PENDING DECISION.—Pending any hearing and final decision on such an application and the disposition of any petition for rehearing pursuant to section 405, the Commission shall continue such license in effect.".

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SEC. 303. BROADCAST LICENSE RENEWAL PROCEDURES.

(a) AMENDMENT.—Section 309 of the Communications Act of 1934 (47 U.S.C. 309) is amended by adding at the end thereof the following new subsection:

"(k) BROADCAST STATION RENEWAL PROCEDURES.—

"(1) STANDARDS FOR RENEWAL.—If the licensee of a broadcast station submits an application to the Commission for renewal of such license, the Commission shall grant the application if it finds, with respect to that station, during the preceding term of its license—

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

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

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

"(2) CONSEQUENCE OF FAILURE TO MEET STANDARD.—If any licensee of a broadcast station fails to meet the requirements of this subsection, the Commission may deny the application for renewal in accordance with paragraph (3), or grant such appli-

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cation on terms and conditions as are appropriate, including renewal for a term less than the maximum otherwise permitted.

"(3) STANDARDS FOR DENIAL.—If the Commission determines, after notice and opportunity for a hearing as provided in subsection (e), that a licensee has failed to meet the requirements specified in paragraph (1) and that no mitigating factors justify the imposition of lesser sanctions, the Commission shall—

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

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

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

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(b) CONFORMING AMENDMENT.—Section 309(d) of the Communications Act of 1934 (47 U.S.C. 309(d)) is amended by inserting after "with subsection (a)" each place such term appears the following: "(or subsection (k) in the case of renewal of any broadcast station license)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any application for renewal filed on or after May 31, 1995.

SEC. 304. EXCLUSIVE FEDERAL JURISDICTION OVER DIRECT BROADCAST SATELLITE SERVICE.

Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following new subsection:

"(v) Have exclusive jurisdiction over the regulation of the direct broadcast satellite service.".

SEC. 305. AUTOMATED SHIP DISTRESS AND SAFETY SYSTEMS.

Notwithstanding any provision of the Communications Act of 1934, a ship documented under the laws of the United States operating in accordance with the Global Maritime Distress and Safety System provisions of the Safety of Life at Sea Convention shall not be required to be equipped with a radio station operated by one or more radio officers or operators.

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SEC. 306. RESTRICTIONS ON OVER-THE-AIR RECEPTION DEVICES.

Within 180 days after the enactment of this Act, the Commission shall, pursuant to section 303, promulgate regulations to prohibit restrictions that inhibit a viewer's ability to receive video programming services through signal receiving devices designed for off-the-air reception of television broadcast signals.

SEC. 307. DBS SIGNAL SECURITY.

Section 705(e)(4) of the Communications Act of 1934 (47 U.S.C. 605(e)) is amended by inserting after "satellite cable programming" the following: "or programming of a licensee in the direct broadcast satellite service".

TITLE IV—EFFECT ON OTHER LAWS

SEC. 401. RELATIONSHIP TO OTHER LAWS.

(a) MODIFICATION OF FINAL JUDGMENT.—Parts II and III of title II of the Communications Act of 1934 (as added by this Act) shall supersede the Modification of Final Judgment, except that such part shall not affect—

(1) section I of the Modification of Final Judgment, relating to AT&T reorganization,

(2) section II(A) (including appendix B) and II(B) of the Modification of Final Judgment, relating to equal access and nondiscrimination,

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(3) section IV(F) and IV(I) of the Modification of Final Judgment, with respect to the requirements included in the definitions of "exchange access" and "information access",

(4) section VIII(B) of the Modification of Final Judgment, relating to printed advertising directories,

(5) section VIII(E) of the Modification of Final Judgment, relating to notice to customers of AT&T,

(6) section VIII(F) of the Modification of Final Judgment, relating to less than equal exchange access,

(7) section VIII(G) of the Modification of Final Judgment, relating to transfer of AT&T assets, including all exceptions granted thereunder before the date of the enactment of this Act, and

(8) with respect to the parts of the Modification of Final Judgment described in paragraphs (1) through (7)—

(A) section III of the Modification of Final Judgment, relating to applicability and effect,

(B) section IV of the Modification of Final Judgment, relating to definitions,

(C) section V of the Modification of Final Judgment, relating to compliance,

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(D) section VI of the Modification of Final Judgment, relating to visitorial provisions,

(E) section VII of the Modification of Final Judgment, relating to retention of jurisdiction, and

(F) section VIII(I) of the Modification of Final Judgment, relating to the court's sua sponte authority.

(b) ANTITRUST LAWS.—Nothing in this Act shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws.

(c) FEDERAL, STATE, AND LOCAL LAW.—(1) Except as provided in paragraph (2), parts II and III of title II of the Communications Act of 1934 shall not be construed to modify, impair, or supersede Federal, State, or local law unless expressly so provided in such part.

(2) Parts II and III of title II of the Communications Act of 1934 shall supersede State and local law to the extent that such law would impair or prevent the operation of such part.

(d) TERMINATION.—The provisions of the GTE consent decree shall cease to be effective on the date of enactment of this Act. For purposes of this subsection, the term "GTE consent decree" means the order entered on December 21, 1984 (as restated on January 11, 1985), in

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United States v. GTE Corporation, Civil Action No. 83–1298, in the United States District Court for the District of Columbia, and includes any judgment or order with respect to such action entered on or after December 21, 1984.

(e) INAPPLICABILITY OF FINAL JUDGMENT TO WIRELESS SUCCESSORS.—No person shall be subject to the provisions of the Modification of Final Judgment by reason of having acquired wireless exchange assets or operations previously owned by a Bell operating company or an affiliate of a Bell operating company.

(f) ANTITRUST LAWS.—As used in this section, the term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes the Act of June 19, 1936 (49 Stat. 1526; 15 U.S.C. 13 et seq.), commonly known as the Robinson Patman Act, and section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

SEC. 402. PREEMPTION OF LOCAL TAXATION WITH RESPECT TO DBS SERVICES.

(a) PREEMPTION.—A provider of direct-to-home satellite service, or its agent or representative for the sale or distribution of direct-to-home satellite services, shall be

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exempt from the collection or remittance, or both, of any tax or fee, as defined by subsection (b)(4), imposed by any local taxing jurisdiction with respect to the provision of direct broadcast satellite services. Nothing in this section shall be construed to exempt from collection or remittance any tax or fee on the sale of equipment.

(b) DEFINITIONS.—For the purposes of this section—

(1) DIRECT BROADCAST SATELLITE SERVICE.—The term "direct-to-home satellite service" means the transmission or broadcasting by satellite of programming directly to the subscribers' premises without the use of ground receiving or distribution equipment, except at the subscribers' premises or in the uplink process to the satellite.

(2) DIRECT-TO-HOME SATELLITE SERVICE PROVIDER.—For purposes of this section, a "provider of direct-to-home satellite service" means a person who transmits or broadcasts direct-to-home satellite services.

(3) LOCAL TAXING JURISDICTION.—The term "local taxing jurisdiction" means any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or any other local

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jurisdiction with the authority to impose a tax or fee.

(4) TAX OR FEE.—The terms "tax" and "fee" mean any local sales tax, local use tax, local intangible tax, local income tax, business license tax, utility tax, privilege tax, gross receipts tax, excise tax, franchise fees, local telecommunications tax, or any other tax, license, or fee that is imposed for the privilege of doing business, regulating, or raising revenue for a local taxing jurisdiction.

(c) EFFECTIVE DATE.—This section shall be effective as of June 1, 1994.

TITLE V—DEFINITIONS

SEC. 501. DEFINITIONS.

(a) ADDITIONAL DEFINITIONS.—Section 3 of the Act (47 U.S.C. 153) is amended—

(1) in subsection (r)—

(A) by inserting "(A)" after "means"; and

(B) by inserting before the period at the end the following: ", or (B) service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service

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within a State but which does not result in the subscriber incurring a telephone toll charge";

(2) by indenting such paragraphs 2 em spaces; and

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

"(35) AFFILIATE.—The term 'affiliate', when used in relation to any person or entity, means another person or entity who owns or controls, is owned or controlled by, or is under common ownership or control with, such person or entity.

"(36) BELL OPERATING COMPANY.—The term 'Bell operating company' means—

"(A) Bell Telephone Company of Nevada, Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, New England Telephone and Telegraph Company, New Jersey Bell Telephone Company, New York Telephone Company, U S West Communications Company, South Central Bell Telephone Company, Southern Bell Telephone and Telegraph Company, Southwestern Bell Telephone Company, The Bell Telephone Company of Pennsylvania, The Chesapeake and Potomac Telephone Company, The Chesapeake and Potomac Telephone

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Company of Maryland, The Chesapeake and Potomac Telephone Company of Virginia, The Chesapeake and Potomac Telephone Company of West Virginia, The Diamond State Telephone Company, The Ohio Bell Telephone Company, The Pacific Telephone and Telegraph Company, or Wisconsin Telephone Company;

"(B) any successor or assign of any such company that provides telephone exchange service.

"(37) CABLE SYSTEM.—The term 'cable system' has the meaning given such term in section 602(7) of this Act.

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

"(39) DIALING PARITY.—The term 'dialing parity' means that a person that is not an affiliated enterprise of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications services

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provider of the customer's designation from among 2 or more telecommunications services providers (including such local exchange carrier).

"(40) EXCHANGE ACCESS.—The term 'exchange access' means the offering of telephone exchange services or facilities for the purpose of the origination or termination of interLATA services.

"(41) INFORMATION SERVICE.—The term 'information service' means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

"(42) INTERLATA SERVICE.—The term 'interLATA service' means telecommunications between a point located in a local access and transport area and a point located outside such area.

"(43) LOCAL ACCESS AND TRANSPORT AREA.—The term 'local access and transport area' or 'LATA' means a contiguous geographic area—

"(A) established by a Bell operating company such that no exchange area includes

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points within more than 1 metropolitan statistical area, consolidated metropolitan statistical area, or State, except as expressly permitted under the Modification of Final Judgment before the date of the enactment of this Act; or

"(B) established or modified by a Bell operating company after the date of enactment of this paragraph and approved by the Commission.

"(44) LOCAL EXCHANGE CARRIER.—The term 'local exchange carrier' means any person that is engaged in the provision of telephone exchange service or exchange access. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under section 332(c), except to the extent that the Commission finds that such service as provided by such person in a State is a replacement for a substantial portion of the wireline telephone exchange service within such State.

"(45) MODIFICATION OF FINAL JUDGMENT.—The term 'Modification of Final Judgment' means the order entered August 24, 1982, in the antitrust action styled United States v. Western Electric, Civil Action No. 82-0192, in the United States District

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Court for the District of Columbia, and includes any judgment or order with respect to such action entered on or after August 24, 1982.

"(46) NUMBER PORTABILITY.—The term 'number portability' means the ability of users of telecommunications services to retain existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one provider of telecommunications services to another, as long as such user continues to be located within the same exchange area.

"(47) TELECOMMUNICATIONS.—The term 'telecommunications' means the transmission, between or among points specified by the subscriber, of information of the subscriber's choosing, without change in the form or content of the information as sent and received, by means of an electromagnetic transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission.

"(48) TELECOMMUNICATIONS EQUIPMENT.—The term 'telecommunications equipment' means equipment, other than customer premises equipment, used by a carrier to provide telecommunications

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services, and includes software integral to such equipment (including upgrades).

"(49) TELECOMMUNICATIONS SERVICE.—The term 'telecommunications service' means the offering, on a common carrier basis, of telecommunications facilities, or of telecommunications by means of such facilities. Such term does not include an information service.".

(b) STYLISTIC CONSISTENCY.—Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended—

(1) in subsections (e) and (n), by redesignating clauses (1), (2) and (3), as clauses (A), (B), and (C), respectively;

(2) in subsection (w), by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(3) in subsections (y) and (z), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(4) by redesignating subsections (a) through (hh) as paragraphs (1) through (34);

(5) by indenting such paragraphs 2 em spaces;

(6) by inserting after the designation of each such paragraph—

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(A) a heading, in a form consistent with the form of the heading of this subsection, consisting of the term defined by such paragraph, or the first term so defined if such paragraph defines more than one term; and

(B) the words "The term"; and

(7) by changing the first letter of each defined term in such paragraphs from a capital to a lower case letter; and

(8) by recording such paragraphs and the additional paragraphs added by subsection (a) in alphabetical order based on the headings of such paragraphs and renumbering such paragraphs as so reordered.

(c) CONFORMING AMENDMENTS.—The Communications Act of 1934 is amended—

(1) in section 225(a)(1), by striking "section 3(h)" and inserting "section 3";

(2) in section 332(d), by striking "section 3(n)" each place it appears and inserting "section 3"; and

(3) in sections 621(d)(3), 636(d), and 637(a)(2), by striking "section 3(v)" and inserting "section 3".

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