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S. 1086

To foster the further development of the Nation's telecommunications infrastructure through the enhancement of competition, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 9 (legislative day, JUNE 7), 1993

Mr. DANFORTH (for himself and Mr. INOUE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To foster the further development of the Nation's telecommunications infrastructure through the enhancement of competition, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Telecommunications
5 Infrastructure Act of 1993".

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) it is in the public interest to encourage the
9 further development of the Nation's telecommuni-

1 cations infrastructure as a means of enhancing the
2 quality of life and promoting economic development
3 and international competitiveness;

4 (2) telecommunications infrastructure develop-
5 ment is particularly crucial to the continued eco-
6 nomic development of rural areas that may lack an
7 adequate industrial or service base for continued de-
8 velopment;

9 (3) advancements of the Nation's telecommuni-
10 cations infrastructure will increase the public welfare
11 by helping to speed the delivery of new services, such
12 as distance learning, remote medical sensing, and
13 distribution of health information;

14 (4) greater infrastructure development is need-
15 ed to bring advanced telecommunications services to
16 small business, disadvantaged, residential, low-in-
17 come, educational, medical, and rural users;

18 (5) increased competition in telecommunications
19 services will encourage infrastructure development
20 and have beneficial effects on the price, universal
21 availability, variety, and quality of telecommuni-
22 cations services;

23 (6) the emergence of competition in tele-
24 communications services has already contributed,
25 and can be expected to continue contributing, to the

1 modernization of the infrastructure; competition in
2 the long distance industry and the communications
3 equipment market has brought about lower prices
4 and higher quality services;

5 (7) competition for local communications serv-
6 ices has already begun to benefit the public; com-
7 petitive access providers have deployed thousands of
8 miles of optical fiber in their local networks; local ex-
9 change carriers have been prompted by competition
10 to accelerate the installation of optical fiber in their
11 own networks;

12 (8) a diversity of telecommunications carriers
13 aids network reliability by providing redundant ca-
14 pacity, thereby lessening the impact of any network
15 failure;

16 (9) competition must proceed under rules that
17 are fair to all telecommunications carriers and pro-
18 tect consumers;

19 (10) all telecommunications carriers, including
20 competitors to the telephone companies, should con-
21 tribute to universal service and should make their
22 networks available for interconnection by others;

23 (11) national policy is needed to advance com-
24 petition in the provision of all telecommunications
25 services;

1 (12) removal of all State and local barriers to
2 entry into the telecommunications services market
3 and provision of national standards for interconnec-
4 tion are essential to the development of a national,
5 interstate telecommunications infrastructure;

6 (13) current Federal and State regulatory poli-
7 cies must be revised and supplemented to advance
8 the development of competition in the telecommuni-
9 cations services market;

10 (14) increasing the availability of interconnec-
11 tion and interoperability among the facilities of tele-
12 communications carriers will help stimulate the de-
13 velopment of competition among providers;

14 (15) telecommunications number portability will
15 eliminate a significant barrier to competition in the
16 provision of telecommunications services;

17 (16) restrictions on resale and sharing of tele-
18 communications networks retard the growth of com-
19 petition and restrict the diversity of services avail-
20 able to the public;

21 (17) additional regulatory measures are needed
22 to allow consumers in rural markets and non-
23 competitive markets the opportunity to benefit from
24 high-quality telecommunications capabilities;

1 (18) regulatory flexibility for existing providers
2 of telephone exchange service is necessary to allow
3 them to respond to competition;

4 (19) the Federal Communications Commission
5 should take steps to ensure network reliability and
6 the development of network standards;

7 (20) access to switched, digital telecommuni-
8 cations service for all segments of the population
9 promotes the core First Amendment goal of diverse
10 information sources by enabling individuals and or-
11 ganizations alike to publish and otherwise make in-
12 formation available in electronic form;

13 (21) the national welfare will be enhanced if
14 community newspapers are provided ease of entry
15 into the operation of information services dissemi-
16 nated through electronic means primarily to cus-
17 tomers in the localities served by such newspapers at
18 reasonable, nondiscriminatory rates to such news-
19 papers;

20 (22) a clear national mandate is needed for full
21 participation in access to telecommunications net-
22 works and services by individuals with disabilities;

23 (23) the obligations of telecommunications car-
24 riers includes the duty to furnish telecommuni-
25 cations services which are designed to be fully acces-

1 sible to individuals with disabilities in accordance
2 with such standards as the Federal Communications
3 Commission may prescribe;

4 (24) it is in the public interest to encourage
5 competition to existing cable television service pro-
6 viders; and

7 (25) amending the legal barriers to telephone
8 company provision of video programming will en-
9 courage competition to existing cable television serv-
10 ice providers and encourage telephone companies to
11 upgrade their telecommunications facilities to enable
12 them to deliver video programming, as long as tele-
13 phone companies are prohibited from buying or com-
14 bining with existing cable companies.

15 **SEC. 3. PURPOSES.**

16 The purposes of this Act are to—

17 (1) encourage private investment in, and ad-
18 vancement of, the Nation's telecommunications in-
19 frastructure;

20 (2) ensure the availability of the widest possible
21 range of competitive choices in the provision of tele-
22 communications and cable television services;

23 (3) eliminate the existing regulatory barriers to
24 competition in the provision of telecommunications
25 and cable television services;

1 (4) encourage interconnection and interoper-
2 ability among telecommunications carriers;

3 (5) ensure the universal availability of telephone
4 service;

5 (6) encourage the continued development and
6 deployment of advanced and reliable capabilities and
7 services in telecommunications networks; and

8 (7) protect the privacy interests of users of tele-
9 communications services.

10 **SEC. 4. DEFINITIONS.**

11 Section 3 of the Communications Act of 1934 (49
12 U.S.C. 153) is amended by adding at the end the following
13 new subsections:

14 “(hh) ‘Local exchange carrier’ means a provider of
15 telephone exchange service that is classified by the Com-
16 mission as a dominant carrier.

17 “(ii) ‘Telecommunications’ means the transmission,
18 between or among points specified by the user, of informa-
19 tion of the user’s choosing, without change in the form
20 or content of the information as sent and received, by
21 means of electromagnetic transmission, with or without
22 benefit of any closed transmission medium, including all
23 instrumentalities, facilities, apparatus, and services (in-
24 cluding the collection, storage, forwarding, switching, and

1 delivery of such information) essential to such trans-
2 mission.

3 “(jj) ‘Telecommunications service’ means the offering
4 of—

5 “(1) telecommunications facilities that (A) are
6 owned or controlled by a provider of telephone ex-
7 change service or (B) interconnect with the network
8 of a provider of telephone exchange service; or

9 “(2) telecommunications by means of such tele-
10 communications facilities.

11 Such term does not include information services.

12 “(kk) ‘Telecommunications carrier’ means any pro-
13 vider of telecommunications services, except that such
14 term does not include hotels, motels, hospitals, and other
15 aggregators of telecommunications services as defined in
16 section 226.

17 “(ll) ‘Telecommunications number portability’ means
18 the ability of users of telecommunications services to re-
19 tain existing telecommunications numbers without impair-
20 ment of quality, reliability, or convenience when switching
21 from one telecommunications carrier to another.

22 “(mm) ‘Information service’ means the offering of a
23 capability for generating, acquiring, storing, transforming,
24 processing, retrieving, utilizing, or making available infor-
25 mation which may be conveyed via telecommunications,

1 except that such service does not include any use of any
2 such capability for the management, control, or operation
3 of a telecommunications system or the management of a
4 telecommunications service.

5 “(nn) ‘Electronic publishing service’ means the provi-
6 sion of any information which the provider of the informa-
7 tion has, or has caused to be, originated, authored, com-
8 piled, collected, or edited, or in which such provider has
9 a direct or indirect financial or proprietary interest, and
10 which is disseminated to an unaffiliated person through
11 some electronic means.”.

12 **SEC. 5. TELECOMMUNICATIONS COMPETITION.**

13 Title II of the Communications Act of 1934 (47
14 U.S.C. 201 et seq.) is amended by adding at the end the
15 following new section:

16 **“SEC. 229. TELECOMMUNICATIONS COMPETITION.**

17 “(a) REMOVAL OF BARRIERS TO ENTRY.—Subject to
18 the provisions of section 301 of this Act, and after one
19 year has elapsed following the date of enactment of this
20 section, no State or local statute or regulation, or other
21 State or local legal requirement, shall prohibit or limit in
22 a manner inconsistent with Federal regulations or with
23 this Act the ability of any entity to provide interstate or
24 intrastate telecommunications services.

1 “(b) REGULATORY AUTHORITY.—The Commission
2 shall retain full authority to regulate the entry and oper-
3 ations of foreign entities or domestic affiliates of foreign
4 entities seeking to provide telecommunications services.
5 Notwithstanding section 332(c)(2), to the extent that they
6 provide telecommunications services, telecommunications
7 carriers shall be deemed common carriers under this Act,
8 except where the provision of telecommunications services
9 by such carriers is de minimis.

10 “(c) OBLIGATIONS OF TELECOMMUNICATIONS CAR-
11 RIERS.—Notwithstanding any other provision of this Act,
12 the Commission shall prescribe regulations to require each
13 telecommunications carrier, upon bona fide request, to
14 provide to any entity seeking to provide telecommuni-
15 cations services or information services, on reasonable
16 terms and conditions—

17 “(1) interconnection to the carrier’s tele-
18 communications facilities at any technically feasible
19 point within the carrier’s network;

20 “(2) nondiscriminatory access to any of the car-
21 rier’s telecommunications facilities and information
22 necessary to the transmission and routing of any
23 telecommunications service or information service
24 and the interoperability of both carriers’ networks;

1 “(3) nondiscriminatory access, where technically
2 feasible, to the poles, ducts, conduits and rights of
3 way owned or controlled by the carrier;

4 “(4) nondiscriminatory access to the network
5 functions of the carrier’s telecommunications net-
6 work, which shall be offered on an unbundled basis;
7 and

8 “(5) telecommunications services and network
9 functions without any restrictions on the resale or
10 sharing of those services and functions.

11 The States may prescribe regulations implementing para-
12 graphs (1) through (5) for intrastate services so long as
13 such regulations are not inconsistent with those prescribed
14 by the Commission.

15 “(d) UNIVERSAL SERVICE.—

16 “(1) ROLE OF TELECOMMUNICATIONS CAR-
17 RIERS.—All telecommunications carriers shall con-
18 tribute to the preservation and advancement of uni-
19 versal service.

20 “(2) ROLE OF STATES.—The States, in coordi-
21 nation with the Commission, shall ensure the preser-
22 vation and advancement of universal service.

23 “(3) ASSISTANCE TO CERTAIN PERSONS.—In
24 administering this subsection, the States and the
25 Commission shall have as their goal directly assist-

1 ing individuals or entities that cannot afford the cost
2 of their telecommunications service or equipment.

3 “(e) CONSUMER INFORMATION.—As competition for
4 telecommunications services develops, the Commission and
5 State regulatory authorities shall take action to ensure
6 that consumers are given the information necessary to
7 make informed choices among their telecommunications
8 alternatives.

9 “(f) TELECOMMUNICATIONS NUMBER PORT-
10 ABILITY.—The Commission shall prescribe regulations to
11 ensure that—

12 “(1) telecommunications number portability
13 shall be available, upon request, as soon as tech-
14 nically feasible; and

15 “(2) an impartial entity shall administer tele-
16 communications numbering and make such numbers
17 available on an equitable basis.

18 “(g) RECIPROCAL COMPENSATION AGREEMENTS.—
19 Telecommunications carriers shall compensate each other
20 on a reciprocal and equivalent basis for termination of
21 telecommunications services on each other’s networks.
22 Compensation shall be determined by negotiation between
23 carriers, or by the Commission’s decision if negotiation
24 fails.

1 “(h) REGULATORY FLEXIBILITY FOR COMPETITIVE
2 SERVICES.—

3 “(1) EXEMPTION FROM REQUIREMENT TO FILE
4 SCHEDULES OF CHARGES.—The Commission may
5 exempt a telecommunications carrier from the provi-
6 sions of section 203 to the extent that the carrier
7 does not have market power.

8 “(2) PRICING FLEXIBILITY.—The Commission
9 and the States may permit telecommunications car-
10 riers to have pricing flexibility for services that the
11 Commission finds are competitive. In implementing
12 this subsection, the Commission and the States shall
13 ensure that rates for basic telephone service and for
14 services that are not competitive remain just and
15 reasonable and that universal service is preserved
16 and advanced.

17 “(i) RULES FOR FOREIGN OWNERSHIP.—The provi-
18 sions of section 310(b) shall not apply to any lawful for-
19 eign ownership in a telecommunications carrier prior to
20 May 24, 1993, if that carrier was not regulated as a com-
21 mon carrier prior to the date of enactment of this section
22 and is deemed to be a common carrier under this Act.”.

1 **SEC. 6. INFRASTRUCTURE INVESTMENT.**

2 Title II of the Communications Act of 1934 (47
3 U.S.C. 201 et seq.), as amended by this Act, is further
4 amended by adding at the end the following new section:

5 **“SEC. 230. INFRASTRUCTURE INVESTMENT.**

6 “(a) RURAL MARKETS AND NONCOMPETITIVE MAR-
7 KETS.—If State regulatory authorities fail to achieve the
8 goal of ensuring that telecommunications carriers provide
9 consumers in rural markets and noncompetitive markets
10 with access to high quality telecommunications network
11 facilities and capabilities which—

12 “(1) provide subscribers with sufficient network
13 capacity to access information services that provide
14 a combination of voice, data, image, and video; and

15 “(2) are available at nondiscriminatory rates
16 that are based on reasonably identifiable costs of
17 providing such services,

18 then the Commission may take any action necessary to
19 achieve that goal.

20 “(b) FULL EFFECTUATION.—The Commission shall
21 have the authority to preempt any State or local statute
22 or regulation, or other State or local legal requirement,
23 that prevents the full effectuation of the goal embodied
24 in subsection (a).

25 “(c) STATE REGULATORY INCENTIVES.—The States
26 are encouraged to implement regulatory incentives to pro-

1 mote the development of high quality telecommunications
2 network facilities and capabilities. If regulatory incentives
3 fail to result in the deployment of high quality tele-
4 communications network facilities and capabilities in rural
5 markets and noncompetitive markets, the States may
6 adopt other methods to ensure that the goal of subsection
7 (a) is achieved.

8 “(d) NETWORK STANDARDS AND PLANNING.—

9 “(1) NETWORK STANDARDS.—

10 “(A) INTERCONNECTION AND INTEROPER-
11 ABILITY STANDARDS.—The Commission shall
12 encourage telecommunications carriers and tele-
13 communications equipment manufacturers to
14 develop standards to ensure interconnection and
15 interoperability of telecommunications net-
16 works.

17 “(B) INDUSTRY ASSISTANCE.—The Com-
18 mission shall, when necessary, establish dead-
19 lines, create incentives, or use other mecha-
20 nisms to assist the industry to develop and im-
21 plement such standards.

22 “(C) COMMISSION AUTHORITY TO ESTAB-
23 LISH STANDARDS.—The Commission may es-
24 tablish standards when industry participants
25 fail to reach agreement.

1 “(2) NETWORK PLANNING.—The Commission
2 shall prescribe regulations establishing procedures to
3 ensure that—

4 “(A) telecommunications carriers shall
5 make available timely information to other such
6 carriers and information service providers in the
7 same geographic area about the deployment of
8 telecommunications equipment, including soft-
9 ware integral to such telecommunications equip-
10 ment, including upgrades, that will affect a tele-
11 communications carrier’s or information service
12 provider’s ability to interconnect or interoperate
13 in the same geographic area;

14 “(B) telecommunications carriers shall not
15 be required to share information required under
16 subparagraph (A) with anyone, including car-
17 riers with whom they directly compete, except
18 as may be necessary to meet the interconnec-
19 tion and interoperability requirements set forth
20 in this paragraph; and

21 “(C) the recipient of any information de-
22 scribed in subparagraph (A) shall use it only
23 for its own interconnection and interoperability.

24 “(3) DISABILITY ACCESS.—The Commission
25 and the States shall ensure that advances in network

1 capabilities and telecommunications services de-
2 ployed by telecommunications carriers are designed
3 to be accessible to individuals with disabilities.”.

4 **SEC. 7. IMPLEMENTING REGULATIONS AND RURAL DEVEL-**
5 **OPMENT.**

6 The Commission shall issue regulations to implement
7 this Act within twelve months after the date of enactment
8 of this Act. Such regulations shall take effect within six
9 months after their issuance, except that the Commission
10 may extend such effective date for up to twenty-four addi-
11 tional months for any small carrier providing telephone
12 exchange service in rural areas, upon a showing by the
13 carrier that compliance would not be technically feasible
14 without additional time.

15 **SEC. 8. RESTRICTIONS ON OWNERSHIP AND CONTROL OF**
16 **CABLE TELEVISION SYSTEMS BY TELEPHONE**
17 **COMPANIES.**

18 Section 613(b) of the Communications Act of 1934
19 (47 U.S.C. 533(b)) is amended to read as follows:

20 “(b)(1) No local exchange carrier, subject in whole
21 or in part to title II of this Act, nor any affiliate of such
22 carrier, owned by, operated by, controlled by, or under
23 common control with such carrier, may—

1 “(A) purchase or otherwise acquire, directly or
2 indirectly, more than a 5 percent financial interest,
3 any management interest, or any other interest, in
4 any cable system that is providing service within the
5 carrier’s telephone exchange service area and is
6 owned by an unaffiliated person; or

7 “(B) enter into any joint venture or partnership
8 with such cable system.

9 “(2) A local exchange carrier shall not provide video
10 programming directly to subscribers in its telephone ex-
11 change service area unless—

12 “(A) such video programming is provided
13 through a separate subsidiary as set forth in section
14 233; and

15 “(B) a tariff filed in compliance with the regu-
16 lations prescribed under section 229 has been ap-
17 proved by the Commission for that area or the Com-
18 mission has failed, within 12 months, to act upon a
19 tariff filed pursuant to section 229 for that area.

20 “(3) A local exchange carrier that provides video pro-
21 gramming directly to subscribers is a cable operator as
22 defined in section 602.

23 “(4) A local exchange carrier shall not engage in
24 practices prohibited by the Commission or by a State (in-
25 cluding but not limited to the improper assignment of

1 costs) that subsidize directly or indirectly its video pro-
2 gramming operations.

3 “(5) Paragraphs (1) and (2) shall not apply to a local
4 exchange carrier to the extent that such carrier provides
5 telephone exchange service in an area to which an exemp-
6 tion applies under section 63.58 of title 47, Code of Fed-
7 eral Regulations (as in effect on the date of enactment
8 of the Telecommunications Infrastructure Act of 1993).

9 “(6) A cable operator shall not provide telecommuni-
10 cations service directly to subscribers in its cable service
11 area unless such telecommunications service is provided
12 through a separate subsidiary as set forth in section 233.

13 “(7) A cable operator shall not engage in practices
14 prohibited by the Commission or by a State (including but
15 not limited to the improper assignment of costs) that sub-
16 sidize directly or indirectly its telecommunications serv-
17 ice.”.

18 **SEC. 9. INTEREXCHANGE SERVICES ASSOCIATED WITH**

19 **CABLE TELEVISION SERVICE.**

20 Title II of the Communications Act of 1934 (47
21 U.S.C. 201 et seq.), as amended by this act, is further
22 amended by adding at the end the following new section:

1 **“SEC. 231. INTEREXCHANGE SERVICES ASSOCIATED WITH**
2 **CABLE TELEVISION SERVICE.**

3 “(a) AUTHORITY.—Subject to the requirements of
4 this section and any regulations prescribed thereunder,
5 but notwithstanding any restriction or obligation imposed
6 before the date of enactment of this section pursuant to
7 the Modification of Final Judgment on the lines of busi-
8 ness in which a Bell Telephone Company may engage, a
9 Bell Telephone Company may, solely for the purpose of
10 providing cable service, own and operate—

11 “(1) receive-only antennas, satellite master an-
12 tenna television facilities, and satellite earth sta-
13 tions; and

14 “(2) inter-LATA distribution facilities.

15 “(b) RESTRICTIONS.—A Bell Telephone Company—

16 “(1) may own and operate the antennas, sta-
17 tions, and facilities described in subsection (a)(1)
18 and (2) only through one or more affiliates that are
19 totally separate from the Company;

20 “(2) may use inter-LATA distribution facilities
21 only insofar as such use is necessary to provide cable
22 service across LATA boundaries; and

23 “(3) may neither select nor recommend—

24 “(A) the satellite uplink service, or

1 “(B) the satellite transponder service that
2 receives the uplink transmission and provides
3 the downlink transmission,
4 used for any of the receive-only antennas, satellite
5 master antenna television facilities, or satellite earth
6 stations owned and operated by the Company as au-
7 thorized by this section.

8 “(c) DEFINITIONS.—As used in this section:

9 “(1) The term ‘Bell Telephone Company’
10 means any of the companies listed in appendix A of
11 the Modification of Final Judgment, and includes
12 any successor or assign of any such company, but
13 does not include any affiliate of any such company.

14 “(2) The term ‘Modification of Final Judg-
15 ment’ means the decree entered August 24, 1982, in
16 United States v. Western Electric, Civil Action No.
17 82–0192 (United States District Court, District of
18 Columbia).

19 “(3) The term ‘LATA’ means the local access
20 and transport area as defined in the Modification of
21 Final Judgment.

22 “(4) The term ‘cable service’ has the meaning
23 given that term under section 602.”.

1 **SEC. 10. INTEREXCHANGE SERVICES RELATING TO CEL-**
2 **LULAR MOBILE RADIO SERVICES.**

3 Title II of the Communications Act of 1934 (47
4 U.S.C. 201 et seq.), as amended by this Act, is further
5 amended by adding at the end the following new section:

6 **“SEC. 232. INTEREXCHANGE SERVICES RELATING TO CEL-**
7 **LULAR MOBILE RADIO SERVICES.**

8 “(a) PROVISION OF INTEREXCHANGE SERVICES.—

9 “(1) AUTHORITY.—Notwithstanding any re-
10 striction or obligation imposed before the date of en-
11 actment of this section pursuant to the Modification
12 of Final Judgment on the lines of business in which
13 a Bell Telephone Company may engage, a Bell Tele-
14 phone Company or its cellular affiliate may provide
15 the interexchange services authorized under this sec-
16 tion solely as necessary to provide cellular mobile
17 radio services.

18 “(2) INTERSYSTEM HANDOFF.—A Bell Tele-
19 phone Company or its cellular affiliate may provide
20 intersystem handoff, across LATA boundaries, of
21 cellular mobile radio transmissions between adjacent
22 cellular systems, including the provision of such
23 transmission facilities as are necessary to allow the
24 continuation of calls in progress without interruption
25 or degradation of service due to the movement of the

1 mobile telephone unit or the characteristics of radio
2 propagation.

3 “(3) AUTOMATIC CALL DELIVERY.—A Bell
4 Telephone Company or its cellular affiliate may pro-
5 vide the routing of cellular transmissions between its
6 cellular system and a cellular system located in an-
7 other LATA, for purposes of completing a call to
8 one of its out-of-region cellular customers.

9 “(4) USE OF LEASED FACILITIES.—
10 Interexchange facilities necessary for intersystem
11 handoff across LATA boundaries or inter-LATA
12 routing of cellular transmissions, as permitted under
13 paragraphs (2) and (3), shall be leased by a Bell
14 Telephone Company or its cellular affiliate from a
15 carrier (other than a Bell Telephone Company or its
16 affiliate) authorized to provide interexchange tele-
17 communications.

18 “(b) EQUAL ACCESS AND PRESUBSCRIPTION.—Not-
19 withstanding any restriction or obligation imposed pursu-
20 ant to the Modification of Final Judgment before the date
21 of enactment of this section, the Commission shall pre-
22 scribe uniform equal access and long distance
23 presubscription requirements for providers of all cellular
24 and two-way wireless services.

1 “(c) DEFINITIONS.—As used in this section, the
2 terms ‘Bell Telephone Company’, ‘Modification of Final
3 Judgment’, and ‘LATA’ have the meaning given those
4 terms under section 231.”.

5 **SEC. 11. PROVISION OF INFORMATION SERVICES.**

6 Title II of the Communications Act of 1934 (47
7 U.S.C. 201 et seq.), as amended by this Act, is further
8 amended by adding at the end thereof the following new
9 section:

10 **“SEC. 233. PROVISION OF INFORMATION SERVICES.**

11 “(a) PROVISION OF INFORMATION SERVICES.—A
12 Bell Telephone Company or an affiliate thereof may pro-
13 vide information services only subject to this section and
14 title VI.

15 “(b) SEPARATE SUBSIDIARY.—

16 “(1) IN GENERAL.—A Bell Telephone Company
17 or affiliate thereof may provide electronic publishing
18 services only through a subsidiary that is separated
19 from the telephone exchange service operations of
20 the Company, in accordance with the requirements
21 of this subsection and the regulations prescribed by
22 the Commission to carry out this subsection.

23 “(2) TRANSACTION REQUIREMENTS.—Any
24 transaction between a subsidiary required by this
25 section and any Bell Telephone Company or between

1 such subsidiary and any other affiliate of the Com-
2 pany shall not be based upon any preference or dis-
3 crimination in favor of the subsidiary arising out of
4 the subsidiary's affiliation with the Company.

5 “(3) SEPARATE OPERATION AND PROPERTY.—
6 A subsidiary required by this subsection, except for
7 the provision of enhanced emergency services, may
8 not enter into any joint venture or partnership with
9 the Bell Telephone Company or any affiliate of the
10 Company.

11 “(4) SEPARATE COMMERCIAL ACTIVITIES.—A
12 subsidiary required by this subsection shall carry out
13 directly and separate from the Bell Telephone Com-
14 pany its own marketing and sales.

15 “(5) BOOKS, RECORDS, AND ACCOUNTS.—Any
16 subsidiary required by this subsection shall maintain
17 books, records, and accounts in a manner prescribed
18 by the Commission which shall be separate from the
19 books, records, and accounts maintained by the Bell
20 Telephone Company and the other affiliates of the
21 Company, and which shall identify any conduct of
22 business with the Company and any such affiliates.

23 “(6) PROVISION OF SERVICES AND INFORMA-
24 TION.—A Bell Telephone Company may not provide
25 any services (including gateway services) or informa-

1 tion to a subsidiary required by this subsection un-
2 less such services or information are made available
3 to others on the same terms and conditions.

4 “(c) PREVENTION OF CROSS SUBSIDIES.—Any Bell
5 Telephone Company that provides information services, or
6 which has an affiliate that is engaged in the provision of
7 such services, shall establish and administer, in accord-
8 ance with the requirements of this subsection and the reg-
9 ulations prescribed thereunder, a cost allocation system
10 that, together with the subsidiary requirements of sub-
11 section (b), is intended to prohibit any cost of providing
12 such services from being subsidized by revenue from tele-
13 phone exchange service or telephone exchange access
14 services.

15 “(d) PROVISION OF GATEWAY SERVICES.—Any Bell
16 Telephone Company or affiliate thereof that offers a gate-
17 way service shall make such service available concurrently
18 to all of its subscribers under nondiscriminatory rates,
19 terms, and conditions, and shall offer gateway service
20 functions to all providers of information services on non-
21 discriminatory rates, terms and conditions.

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

23 “(1) The term ‘affiliate’ means any organiza-
24 tion or entity that, directly or indirectly, owns or
25 controls, or is owned or controlled by, or is under

1 common ownership or control with, a Bell Telephone
2 Company. For purposes of this paragraph, the terms
3 'own', 'owned', and 'ownership' mean a direct or in-
4 direct equity interest (or equivalent thereof) of more
5 than 5 percent of an organization or entity, or the
6 right to more than 5 percent of the gross revenues
7 of an organization or entity under a revenue sharing
8 or royalty agreement, or any substantial manage-
9 ment or financial interest.

10 “(2) The term ‘Bell Telephone Company’ has
11 the meaning given that term under section 231.

12 “(3) The term ‘gateway service’ means an in-
13 formation service that, at the request of the provider
14 of an electronic publishing service or other informa-
15 tion service, provides a subscriber with access to
16 such electronic publishing service or other informa-
17 tion service, utilizing the following functions: data
18 transmission, address translation, billing informa-
19 tion, protocol conversion, and introductory informa-
20 tion content.”.

21 **SEC. 12. PRIVACY OF CUSTOMER PROPRIETARY NETWORK**
22 **INFORMATION.**

23 Title II of the Communications Act of 1934 (47
24 U.S.C. 201 et seq.), as amended by this Act, is further
25 amended by adding at the end the following new section:

1 **“SEC. 234. PRIVACY OF CUSTOMER PROPRIETARY NET-**
2 **WORK INFORMATION.**

3 “(a) PRIVACY REQUIREMENTS FOR TELECOMMUNI-
4 CATIONS CARRIERS.—A telecommunications carrier—

5 “(1) shall not disclose any customer proprietary
6 network information to any person, except—

7 “(A) as required by law; or

8 “(B) upon affirmative written request by
9 the customer to which it relates;

10 “(2) shall disclose such information, upon af-
11 firmative written request by the customer, to a serv-
12 ice provider designated by the customer;

13 “(3) shall, whenever such telecommunications
14 carrier provides any aggregate information based on
15 customer proprietary network information or any
16 data base or other compilation of customer propri-
17 etary information to any person, notify the Commis-
18 sion of the availability of such aggregate or compiled
19 information and shall provide such aggregate or
20 compiled information on the same terms and condi-
21 tions to any other service provider upon reasonable
22 request therefor; and

23 “(4) shall not discriminate between affiliated
24 and unaffiliated service providers in providing access
25 to, or in the use and disclosure of, individual and ag-

1 gregate or compiled information made available con-
2 sistent with this subsection.

3 “(b) PROVISION OF SUBSCRIBER LIST INFORMA-
4 TION.—Notwithstanding subsection (a), a local exchange
5 carrier shall provide subscriber list information under non-
6 discriminatory and reasonable rates, terms, and conditions
7 to any person upon reasonable request. A local exchange
8 carrier shall provide each of its subscribers with the oppor-
9 tunity to prohibit or limit disclosure of his or her sub-
10 scriber list information.

11 “(c) DEFINITIONS.—As used in this section:

12 “(1) The term ‘customer proprietary network
13 information’ means—

14 “(A) information which (i) relates to the
15 quantity, technical configuration, type, destina-
16 tion, and amount of use of telecommunications
17 service subscribed to by any customer of a tele-
18 communications carrier, and (ii) is available to
19 the telecommunications carrier by virtue of the
20 telecommunications carrier-customer relation-
21 ship;

22 “(B) information contained in the bills for
23 telecommunications service received by a cus-
24 tomer of a telecommunications carrier; and

1 “(C) such other information concerning the
2 customer as is (i) available to the telecommuni-
3 cations carrier by virtue of the customer’s use
4 of the carrier’s services, and (ii) specified as
5 within the definition of such term by such rules
6 as the Commission shall prescribe consistent
7 with the public interest.

8 “(2) The term ‘aggregate information’ means
9 collective data that relates to a group or category of
10 services or customers, from which individual cus-
11 tomer identities or characteristics have been re-
12 moved.

13 “(3) The term ‘subscriber list information’
14 means information identifying a local exchange car-
15 rier subscriber’s name, telephone number, address,
16 billing name and address, or primary director adver-
17 tising listing, or any combination thereof.”.

18 **SEC. 13. JURISDICTION.**

19 Section 2 of the Communications Act of 1934 (47
20 U.S.C. 153) is amended—

21 (1) in subsection (b), by inserting “and sections
22 229 and 233” immediately after “sections 223
23 through 227, inclusive,”; and

24 (2) by adding at the end the following new sub-
25 section:

1 “(c)(1) Notwithstanding subsection (b), a State may
2 not regulate the rates, terms, or conditions for the offering
3 of information services, except as provided in title VI.”.

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