

104TH CONGRESS
1ST SESSION

S. 652

AN ACT

To provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes.

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 Competition and Deregulation Act of 1995”.

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1 **SEC. 3. PURPOSE.**

- 2 It is the purpose of this Act to increase competition
- 3 in all telecommunications markets and provide for an or-

1 derly transition from regulated markets to competitive and
2 deregulated telecommunications markets consistent with
3 the public interest, convenience, and necessity.

4 **SEC. 4. GOALS.**

5 This Act is intended to establish a national policy
6 framework designed to accelerate rapidly the private sec-
7 tor deployment of advanced telecommunications and infor-
8 mation technologies and services to all Americans by open-
9 ing all telecommunications markets to competition, and to
10 meet the following goals:

11 (1) To promote and encourage advanced tele-
12 communications networks, capable of enabling users
13 to originate and receive affordable, high-quality
14 voice, data, image, graphic, and video telecommuni-
15 cations services.

16 (2) To improve international competitiveness
17 markedly.

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

20 (4) To deliver a better quality of life through
21 the preservation and advancement of universal serv-
22 ice to allow the more efficient delivery of edu-
23 cational, health care, and other social services.

24 **SEC. 5. FINDINGS.**

25 The Congress makes the following findings:

1 (1) Competition, not regulation, is the best way
2 to spur innovation and the development of new serv-
3 ices. A competitive market place is the most efficient
4 way to lower prices and increase value for consum-
5 ers. In furthering the principle of open and full com-
6 petition in all telecommunications markets, however,
7 it must be recognized that some markets are more
8 open than others.

9 (2) Local telephone service is predominantly a
10 monopoly service. Although business customers in
11 metropolitan areas may have alternative providers
12 for exchange access service, consumers do not have
13 a choice of local telephone service. Some States have
14 begun to open local telephone markets to competi-
15 tion. A national policy framework is needed to accel-
16 erate the process.

17 (3) Because of their monopoly status, local tele-
18 phone companies and the Bell operating companies
19 have been prevented from competing in certain mar-
20 kets. It is time to eliminate these restrictions. None-
21 theless, transition rules designed to open monopoly
22 markets to competition must be in place before cer-
23 tain restrictions are lifted.

24 (4) Transition rules must be truly transitional,
25 not protectionism for certain industry segments or

1 artificial impediments to increased competition in all
2 markets. Where possible, transition rules should cre-
3 ate investment incentives through increased competi-
4 tion. Regulatory safeguards should be adopted only
5 where competitive conditions would not prevent anti-
6 competitive behavior.

7 (5) More competitive American telecommuni-
8 cations markets will promote United States techno-
9 logical advances, domestic job and investment oppor-
10 tunities, national competitiveness, sustained eco-
11 nomic development, and improved quality of Amer-
12 ican life more effectively than regulation.

13 (6) Congress should establish clear statutory
14 guidelines, standards, and time frames to facilitate
15 more effective communications competition and, by
16 so doing, will reduce business and customer uncer-
17 tainty, lessen regulatory processes, court appeals,
18 and litigation, and thus encourage the business com-
19 munity to focus more on competing in the domestic
20 and international communications marketplace.

21 (7) Where competitive markets are demon-
22 strably inadequate to safeguard important public
23 policy goals, such as the continued universal avail-
24 ability of telecommunications services at reasonable
25 and affordable prices, particularly in rural America,

1 Congress should establish workable regulatory proce-
2 dures to advance those goals, provided that in any
3 proceeding undertaken to ensure universal availabil-
4 ity, regulators shall seek to choose the most procom-
5 petitive and least burdensome alternative.

6 (8) Competitive communications markets, safe-
7 guarded by effective Federal and State antitrust en-
8 forcement, and strong economic growth in the Unit-
9 ed States which such markets will foster are the
10 most effective means of assuring that all segments
11 of the American public command access to advanced
12 telecommunications technologies.

13 (9) Achieving full and fair competition requires
14 strict parity of marketplace opportunities and re-
15 sponsibilities on the part of incumbent telecommuni-
16 cations service providers as well as new entrants into
17 the telecommunications marketplace, provided that
18 any responsibilities placed on providers should be the
19 minimum required to advance a clearly defined pub-
20 lic policy goal.

21 (10) Congress should not cede its constitutional
22 responsibility regarding interstate and foreign com-
23 merce in communications to the Judiciary through
24 the establishment of procedures which will encourage

1 or necessitate judicial interpretation or intervention
2 into the communications marketplace.

3 (11) Ensuring that all Americans, regardless of
4 where they may work, live, or visit, ultimately have
5 comparable access to the full benefits of competitive
6 communications markets requires Federal and State
7 authorities to work together affirmatively to mini-
8 mize and remove unnecessary institutional and regu-
9 latory barriers to new entry and competition.

10 (12) Effectively competitive communications
11 markets will ensure customers the widest possible
12 choice of services and equipment, tailored to individ-
13 ual desires and needs, and at prices they are willing
14 to pay.

15 (13) Investment in and deployment of existing
16 and future advanced, multipurpose technologies will
17 best be fostered by minimizing government limita-
18 tions on the commercial use of those technologies.

19 (14) The efficient development of competitive
20 United States communications markets will be
21 furthered by policies which aim at ensuring recip-
22 rocal opening of international investment opportuni-
23 ties.

1 **SEC. 6. AMENDMENT OF COMMUNICATIONS ACT OF 1934.**

2 Except as otherwise expressly provided, whenever in
3 this Act an amendment or repeal is expressed in terms
4 of an amendment to, or repeal of, a section or other provi-
5 sion, the reference shall be considered to be made to a
6 section or other provision of the Communications Act of
7 1934 (47 U.S.C. 151 et seq.).

8 **SEC. 7. EFFECT ON OTHER LAW.**

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

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

16 (c) TRANSFER OF MFJ.—After the date of enact-
17 ment of this Act, the Commission shall administer any
18 provision of the Modification of Final Judgment not over-
19 ridden or superseded by this Act. The District Court for
20 the District of Columbia shall have no further jurisdiction
21 over any provision of the Modification of Final Judgment
22 administered by the Commission under this Act or the
23 Communications Act of 1934. The Commission may, con-
24 sistent with this Act (and the amendments made by this
25 Act), modify any provision of the Modification of Final
26 Judgment that it administers.

1 (d) GTE CONSENT DECREE.—This Act shall super-
2 sede the provisions of the Final Judgment entered in Unit-
3 ed States v. GTE Corp., No. 83-1298 (D.C. D.C.), and
4 such Final Judgment shall not be enforced after the effec-
5 tive date of this Act.

6 **SEC. 8. DEFINITIONS.**

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

9 (1) COMMISSION.—The term “Commission”
10 means the Federal Communications Commission.

11 (2) MODIFICATION OF FINAL JUDGMENT.—The
12 term “Modification of Final Judgment” means the
13 decree entered on August 24, 1982, in United States
14 v. Western Electric Civil Action No. 82-0192 (Unit-
15 ed States District Court, District of Columbia), and
16 includes any judgment or order with respect to such
17 action entered on or after August 24, 1982, and be-
18 fore the date of enactment of this Act.

19 (3) GTE CONSENT DECREE.—The term “GTE
20 Consent Decree” means the order entered on De-
21 cember 21, 1984, as restated January 11, 1985, in
22 United States v. GTE Corporation, Civil Action No.
23 83-1298 (United States District Court, District of
24 Columbia), and includes any judgment or order with
25 respect to such action entered on or after January

1 11, 1985, and before the date of enactment of this
2 Act.

3 (4) INTEGRATED TELECOMMUNICATIONS SERV-
4 ICE PROVIDER.—The term “integrated telecommuni-
5 cations service provider” means any person engaged
6 in the provision of multiple services, such as voice,
7 data, image, graphics, and video services, which
8 make common use of all or part of the same trans-
9 mission facilities, switches, signalling, or control de-
10 vices.

11 (b) TERMS USED IN THE COMMUNICATIONS ACT OF
12 1934.—Section 3 (47 U.S.C. 153) is amended by adding
13 at the end thereof the following:

14 “(gg) ‘Modification of Final Judgment’ means the de-
15 cree entered on August 24, 1982, in United States v.
16 Western Electric Civil Action No. 82-0192 (United States
17 District Court, District of Columbia), and includes any
18 judgment or order with respect to such action entered on
19 or after August 24, 1982, and before the date of enact-
20 ment of the Telecommunications Competition and Deregula-
21 tion Act of 1995.

22 “(hh) ‘Bell operating company’ means any company
23 listed in appendix A of the Modification of Final Judg-
24 ment to the extent such company provides telephone ex-
25 change service or exchange access service, and includes

1 any successor or assign of any such company, but does
2 not include any affiliate of such company.

3 “(ii) ‘Affiliate’ means a person that (directly or indi-
4 rectly) owns or controls, is owned or controlled by, or is
5 under common ownership or control with, another person.
6 For purposes of this paragraph, the term ‘own’ means to
7 own an equity interest (or the equivalent thereof) of more
8 than 10 percent.

9 “(jj) ‘Telecommunications Act of 1995’ means the
10 Telecommunications Competition and Deregulation Act of
11 1995.

12 “(kk) ‘Local exchange carrier’ means a provider of
13 telephone exchange service or exchange access service.

14 “(ll) ‘Telecommunications’ means the transmission,
15 between or among points specified by the user, of informa-
16 tion of the user’s choosing, including voice, data, image,
17 graphics, and video, without change in the form or content
18 of the information, as sent and received, with or without
19 benefit of any closed transmission medium.

20 “(mm) ‘Telecommunications service’ means the offer-
21 ing of telecommunications for a fee directly to the public,
22 or to such classes of users as to be effectively available
23 directly to the public, regardless of the facilities used to
24 transmit the telecommunications service.

1 “(nn) ‘Telecommunications carrier’ means any pro-
2 vider of telecommunications services, except that such
3 term does not include hotels, motels, hospitals, and other
4 aggregators of telecommunications services (as defined in
5 section 226). A telecommunications carrier shall only be
6 treated as a common carrier under this Act to the extent
7 that it is engaged in providing telecommunications services
8 for voice, data, image, graphics, or video that it does not
9 own, control, or select, except that the Commission shall
10 continue to determine whether the provision of fixed and
11 mobile satellite service shall be treated as common car-
12 riage.

13 “(oo) ‘Telecommunications number portability’
14 means the ability of users of telecommunications services
15 to retain, at the same location, existing telecommuni-
16 cations numbers without impairment of quality, reliability,
17 or convenience when switching from one telecommuni-
18 cations carrier to another.

19 “(pp) ‘Information service’ means the offering of
20 services that—

21 “(1) employ computer processing applications
22 that act on the format, content, code, protocol, or
23 similar aspects of the subscriber’s transmitted infor-
24 mation;

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

3 “(3) involve subscriber interaction with stored
4 information.

5 “(qq) ‘Cable service’ means cable service as defined
6 in section 602.

7 “(rr) ‘Rural telephone company’ means a tele-
8 communications carrier operating entity to the extent that
9 such entity provides telephone exchange service, including
10 access service subject to part 69 of the Commission’s rules
11 (47 C.F.R. 69.1 et seq.), to—

12 “(1) any service area that does not include ei-
13 ther—

14 “(A) any incorporated place of 10,000 in-
15 habitants or more, or any part thereof, based
16 on the most recent population statistics of the
17 Bureau of the Census; or

18 “(B) any territory, incorporated or unin-
19 corporated, included in an urbanized area, as
20 defined by the Bureau of the Census as of Jan-
21 uary 1, 1995; or

22 “(2) fewer than 100,000 access lines within a
23 State.

24 “(ss) ‘Service area’ means a geographic area estab-
25 lished by the Commission and the States for the purpose

1 of determining universal service obligations and support
 2 mechanisms. In the case of an area served by a rural tele-
 3 phone company, ‘service area’ means such company’s
 4 ‘study area’ unless and until the Commission and the
 5 States, after taking into account recommendations of a
 6 Federal-State Joint Board instituted under section
 7 410(c), establish a different definition of service area for
 8 such company.

9 “(tt) ‘LATA’ means a local access and transport area
 10 as defined in *United States v. Western Electric Co.*, 569
 11 F. Supp. 990 (U. S. District Court, District of Columbia)
 12 and subsequent judicial orders relating thereto, except
 13 that, with respect to commercial mobile services, the term
 14 ‘LATA’ means the geographic areas defined or used by
 15 the Commission in issuing licenses for such services: *Pro-*
 16 *vided however*, That in the case of a Bell operating com-
 17 pany cellular affiliate, such geographic area shall be no
 18 smaller than the LATA area for such affiliate on the date
 19 of enactment of the Telecommunications Act of 1995.”.

20 TITLE I—TRANSITION TO COMPETITION

21 **SEC. 101. INTERCONNECTION REQUIREMENTS.**

22 (a) REQUIRED INTERCONNECTION.—Title II (47
 23 U.S.C. 201 et seq.) is amended by inserting after section
 24 228 the following:

1 **“Part II—Competition in Telecommunications**

2 **“SEC. 251. INTERCONNECTION.**

3 “(a) DUTY TO PROVIDE INTERCONNECTION.—

4 “(1) IN GENERAL.—A local exchange carrier, or
5 class of local exchange carriers, determined by the
6 Commission to have market power in providing tele-
7 phone exchange service or exchange access service
8 has a duty under this Act, upon request—

9 “(A) to enter into good faith negotiations
10 with any telecommunications carrier requesting
11 interconnection between the facilities and equip-
12 ment of the requesting telecommunications car-
13 rier and the carrier, or class of carriers, of
14 which the request was made for the purpose of
15 permitting the telecommunications carrier to
16 provide telephone exchange or exchange access
17 service; and

18 “(B) to provide such interconnection, at
19 rates that are reasonable and nondiscrim-
20 inatory, according to the terms of the agree-
21 ment and in accordance with the requirements
22 of this section.

23 “(2) INITIATION.—A local exchange carrier, or
24 class of carriers, described in paragraph (1) shall
25 commence good faith negotiations to conclude an
26 agreement, whether through negotiation under sub-

1 section (c) or arbitration or intervention under sub-
2 section (d), within 15 days after receiving a request
3 from any telecommunications carrier seeking to pro-
4 vide telephone exchange or exchange access service.
5 Nothing in this Act shall prohibit multilateral nego-
6 tiations between or among a local exchange carrier
7 or class of carriers and a telecommunications carrier
8 or class of carriers seeking interconnection under
9 subsection (c) or subsection (d). At the request of
10 any of the parties to a negotiation, a State may par-
11 ticipate in the negotiation of any portion of an
12 agreement under subsection (c).

13 “(3) MARKET POWER.—For the purpose of de-
14 termining whether a carrier has market power under
15 paragraph (1), the relevant market shall include all
16 providers of telephone exchange or exchange access
17 services in a local area, regardless of the technology
18 used by any such provider.

19 “(b) MINIMUM STANDARDS.—An interconnection
20 agreement entered into under this section shall, if re-
21 quested by a telecommunications carrier requesting inter-
22 connection, provide for—

23 “(1) nondiscriminatory access on an unbundled
24 basis to the network functions and services of the
25 local exchange carrier’s telecommunications network

1 (including switching software, to the extent defined
2 in implementing regulations by the Commission);

3 “(2) nondiscriminatory access on an unbundled
4 basis to any of the local exchange carrier’s tele-
5 communications facilities and information, including
6 databases and signaling, necessary to the trans-
7 mission and routing of any telephone exchange serv-
8 ice or exchange access service and the interoper-
9 ability of both carriers’ networks;

10 “(3) interconnection to the local exchange car-
11 rier’s telecommunications facilities and services at
12 any technically feasible point within the carrier’s
13 network;

14 “(4) interconnection that is at least equal in
15 type, quality, and price (on a per unit basis or other-
16 wise) to that provided by the local exchange carrier
17 to itself or to any subsidiary, affiliate, or any other
18 party to which the carrier provides interconnection;

19 “(5) nondiscriminatory access to the poles,
20 ducts, conduits, and rights-of-way owned or con-
21 trolled by the local exchange carrier at just and rea-
22 sonable rates;

23 “(6) the local exchange carrier to take whatever
24 action under its control is necessary, as soon as is
25 technically feasible, to provide telecommunications

1 number portability and local dialing parity in a man-
2 ner that—

3 “(A) permits consumers to be able to dial
4 the same number of digits when using any tele-
5 communications carrier providing telephone ex-
6 change service or exchange access service in the
7 market served by the local exchange carrier;

8 “(B) permits all such carriers to have non-
9 discriminatory access to telephone numbers, op-
10 erator services, directory assistance, and direc-
11 tory listing with no unreasonable dialing delays;
12 and

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

15 “(7) telecommunications services and network
16 functions of the local exchange carrier to be avail-
17 able to the telecommunications carrier on an
18 unbundled basis without any unreasonable condi-
19 tions on the resale or sharing of those services or
20 functions, including the origination, transport, and
21 termination of such telecommunications services,
22 other than reasonable conditions required by a
23 State; and for purposes of this paragraph, it is not
24 an unreasonable condition for a State to limit the re-
25 sale—

1 “(A) of services included in the definition
2 of universal service to a telecommunications
3 carrier who resells that service to a category of
4 customers different from the category of cus-
5 tomers being offered that universal service by
6 such carrier if the State orders a carrier to pro-
7 vide the same service to different categories of
8 customers at different prices necessary to pro-
9 mote universal service; or

10 “(B) of subsidized universal service in a
11 manner that allows companies to charge an-
12 other carrier rates which reflect the actual cost
13 of providing those services to that carrier, ex-
14 clusive of any universal service support received
15 for providing such services in accordance with
16 section 214(d)(5);

17 “(8) reciprocal compensation arrangements for
18 the origination and termination of telecommuni-
19 cations;

20 “(9) reasonable public notice of changes in the
21 information necessary for the transmission and rout-
22 ing of services using that local exchange carrier’s fa-
23 cilities or networks, as well as of any other changes
24 that would affect the interoperability of those facili-
25 ties and networks; and

1 “(10) a schedule of itemized charges and condi-
2 tions for each service, facility, or function provided
3 under the agreement.

4 “(c) AGREEMENTS ARRIVED AT THROUGH NEGOTIA-
5 TION.—Upon receiving a request for interconnection, a
6 local exchange carrier may meet its interconnection obliga-
7 tions under this section by negotiating and entering into
8 a binding agreement with the telecommunications carrier
9 seeking interconnection without regard to the standards
10 set forth in subsection (b). The agreement shall include
11 a schedule of itemized charges for each service, facility,
12 or function included in the agreement. The agreement, in-
13 cluding any interconnection agreement negotiated before
14 the date of enactment of the Telecommunications Act of
15 1995, shall be submitted to the State under subsection
16 (e).

17 “(d) AGREEMENTS ARRIVED AT THROUGH ARBITRA-
18 TION OR INTERVENTION.—

19 “(1) IN GENERAL.—Any party negotiating an
20 interconnection agreement under this section may,
21 at any point in the negotiation, ask a State to par-
22 ticipate in the negotiation and to arbitrate any dif-
23 ferences arising in the course of the negotiation. The
24 refusal of any other party to the negotiation to par-
25 ticipate further in the negotiations, to cooperate with

1 the State in carrying out its function as a arbitrator,
2 or to continue to negotiate in good faith in the pres-
3 ence, or with the assistance, of the State shall be
4 considered a failure to negotiate in good faith.

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

16 “(3) DUTY OF PETITIONER.—

17 “(A) A party that petitions a State under
18 paragraph (2) shall, at the same time as it sub-
19 mits the petition, provide the State all relevant
20 documentation concerning the negotiations nec-
21 essary to understand—

22 “(i) the unresolved issues;

23 “(ii) the position of each of the par-
24 ties with respect to those issues; and

1 “(iii) any other issue discussed and
2 resolved by the parties.

3 “(B) A party petitioning a State under
4 paragraph (2) shall provide a copy of the peti-
5 tion and any documentation to the other party
6 not later than the day on which the State re-
7 ceives the petition.

8 “(4) OPPORTUNITY TO RESPOND.—A party to a
9 negotiation under this section with respect to which
10 the other party has petitioned a State under para-
11 graph (2) may respond to the other party’s petition
12 and provide such additional information as it wishes
13 within 25 days after the State receives the petition.

14 “(5) ACTION BY STATE.—

15 “(A) A State proceeding to consider a peti-
16 tion under this subsection shall be conducted in
17 accordance with the rules promulgated by the
18 Commission under subsection (i). The State
19 shall limit its consideration of any petition
20 under paragraph (2) (and any response thereto)
21 to the issues set forth in the petition and in the
22 response, if any, filed under paragraph (4).

23 “(B) The State may require the petitioning
24 party and the responding party to provide such
25 information as may be necessary for the State

1 to reach a decision on the unresolved issues. If
2 either party refuses or fails unreasonably to re-
3 spond on a timely basis to any reasonable re-
4 quest from the State, then the State may pro-
5 ceed on the basis of the best information avail-
6 able to it from whatever source derived.

7 “(C) The State shall resolve each issue set
8 forth in the petition and the response, if any,
9 by imposing appropriate conditions upon the
10 parties to the agreement, and shall conduct the
11 review of the agreement (including the issues
12 resolved by the State) not later than 10 months
13 after the date on which the local exchange car-
14 rier received the request for interconnection
15 under this section.

16 “(D) In resolving any open issues and im-
17 posing conditions upon the parties to the agree-
18 ment, a State shall ensure that the require-
19 ments of this section are met by the solution
20 imposed by the State and are consistent with
21 the Commission’s rules defining minimum
22 standards.

23 “(6) CHARGES.—If the amount charged by a
24 local exchange carrier, or class of local exchange car-
25 riers, for an unbundled element of the interconnec-

1 tion provided under subsection (b) is determined by
2 arbitration or intervention under this subsection,
3 then the charge—

4 “(A) shall be

5 “(i) based on the cost (determined
6 without reference to a rate-of-return or
7 other rate-based proceeding) of providing
8 the unbundled element,

9 “(ii) nondiscriminatory, and

10 “(iii) individually priced to the small-
11 est element that is technically feasible and
12 economically reasonable to provide; and

13 “(B) may include a reasonable profit.

14 “(e) APPROVAL BY STATE.—Any interconnection
15 agreement under this section shall be submitted for ap-
16 proval to the State. A State to which an agreement is sub-
17 mitted shall approve or reject the agreement, with written
18 findings as to any deficiencies. The State may only re-
19 ject—

20 “(1) an agreement under subsection (c) if it
21 finds that the agreement discriminates against a
22 telecommunications carrier not a party to the agree-
23 ment; and

24 “(2) an agreement under subsection (d) if it
25 finds that—

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

3 “(B) the implementation of the agreement
4 is not in the public interest.

5 If the State does not act to approve or reject the agree-
6 ment within 90 days after receiving the agreement, or 30
7 days in the case of an agreement negotiated under sub-
8 section (c), the agreement shall be deemed approved. No
9 State court shall have jurisdiction to review the action of
10 a State in approving or rejecting an agreement under this
11 section.

12 “(f) FILING REQUIRED.—A State shall make a copy
13 of each agreement approved under subsection (e) available
14 for public inspection and copying within 10 days after the
15 agreement is approved. The State may charge a reason-
16 able and nondiscriminatory fee to the parties to the agree-
17 ment to cover the costs of approving and filing such agree-
18 ment.

19 “(g) AVAILABILITY TO OTHER TELECOMMUNI-
20 CATIONS CARRIERS.—A local exchange carrier shall make
21 available any service, facility, or function provided under
22 an interconnection agreement to which it is a party to any
23 other telecommunications carrier that requests such inter-
24 connection upon the same terms and conditions as those
25 provided in the agreement.

1 “(h) COLLOCATION.—A State may require tele-
 2 communications carriers to provide for actual collocation
 3 of equipment necessary for interconnection at the premises
 4 of the carrier at reasonable charges, if the State finds ac-
 5 tual collocation to be in the public interest.

6 “(i) IMPLEMENTATION.—

7 “(1) RULES AND STANDARDS.—The Commis-
 8 sion shall promulgate rules to implement the re-
 9 quirements of this section within 6 months after the
 10 date of enactment of the Telecommunications Act of
 11 1995. In establishing the standards for determining
 12 what facilities and information are necessary for
 13 purposes of subsection (b)(2), the Commission shall
 14 consider, at a minimum, whether—

15 “(A) access to such facilities and informa-
 16 tion that are proprietary in nature is necessary;
 17 and

18 “(B) the failure to provide access to such
 19 facilities and information would impair the abil-
 20 ity of the telecommunications carrier seeking
 21 interconnection to provide the services that it
 22 seeks to offer.

23 “(2) COMMISSION TO ACT IF STATE WILL NOT
 24 ACT.—If a State, through action or inaction, fails to
 25 carry out its responsibility under this section in ac-

1 cordance with the rules prescribed by the Commis-
2 sion under paragraph (1) in any proceeding or other
3 matter under this section, then the Commission shall
4 issue an order preempting the State's jurisdiction of
5 that proceeding or matter within 90 days after being
6 notified (or taking notice) of such failure, and shall
7 assume the responsibility of the State under this sec-
8 tion with respect to the proceeding or matter and
9 act for the State.

10 “(3) WAIVERS AND MODIFICATIONS FOR RURAL
11 CARRIERS.—The Commission or a State shall, upon
12 petition or on its own initiative, waive or modify the
13 requirements of subsection (b) for a rural telephone
14 company or companies, and may waive or modify the
15 requirements of subsection (b) for local exchange
16 carriers with fewer than 2 percent of the Nation's
17 subscriber lines installed in the aggregate nation-
18 wide, to the extent that the Commission or a State
19 determines that such requirements would result in
20 unfair competition, impose a significant adverse eco-
21 nomic impact on users of telecommunications serv-
22 ices, be technically infeasible, or otherwise not be in
23 the public interest. The Commission or a State shall
24 act upon any petition filed under this paragraph
25 within 180 days of receiving such petition. Pending

1 such action, the Commission or a State may suspend
2 enforcement of the requirement or requirements to
3 which the petition applies with respect to the peti-
4 tioning carrier or carriers.

5 “(j) STATE REQUIREMENTS.—Nothing in this section
6 precludes a State from imposing requirements on a tele-
7 communications carrier for intrastate services that are
8 necessary to further competition in the provision of tele-
9 phone exchange service or exchange access service, as long
10 as the State’s requirements are not inconsistent with the
11 Commission’s regulations to implement this section.

12 “(k) ACCESS CHARGE RULES.—Nothing in this sec-
13 tion shall affect the Commission’s interexchange-to-local
14 exchange access charge rules for local exchange carriers
15 or interexchange carriers in effect on the date of enact-
16 ment of the Telecommunications Act of 1995.

17 “(l) REVIEW OF INTERCONNECTION STANDARDS.—
18 Beginning 3 years after the date of enactment of the Tele-
19 communications Act of 1995 and every 3 years thereafter,
20 the Commission shall review the standards and require-
21 ments for interconnection established under subsection
22 (b). The Commission shall complete each such review with-
23 in 180 days and may modify or waive any requirements
24 or standards established under subsection (b) if it deter-

1 mines that the modification or waiver meets the require-
2 ments of section 260.

3 “(m) COMMERCIAL MOBILE SERVICE PROVIDERS.—
4 The requirements of this section shall not apply to com-
5 mercial mobile services provided by a wireline local ex-
6 change carrier unless the Commission determines under
7 subsection (a)(3) that such carrier has market power in
8 the provision of commercial mobile service.”.

9 (c) TECHNICAL AMENDMENTS.—

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

12 “PART I—GENERAL PROVISIONS”.

13 (2) Section 2(b) (47 U.S.C. 152(b)) is amended
14 by striking “sections 223 through 227, inclusive,
15 and section 332,” and inserting “section 214(d),
16 sections 223 through 227, part II of title II, and
17 section 332,”.

18 **SEC. 102. SEPARATE AFFILIATE AND SAFEGUARD REQUIRE-**
19 **MENTS.**

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

23 **“SEC. 252. SEPARATE AFFILIATE; SAFEGUARDS.**

24 “(a) SEPARATE AFFILIATE REQUIRED FOR COM-
25 PETITIVE ACTIVITIES.—

1 “(1) IN GENERAL.—A Bell operating company
2 (including any affiliate) which is a local exchange
3 carrier that is subject to the requirements of section
4 251(a) may not provide any service described in
5 paragraph (2) unless it provides that service through
6 one or more affiliates that—

7 “(A) are separate from any operating com-
8 pany entity that is subject to the requirements
9 of section 251(a); and

10 “(B) meet the requirements of subsection
11 (b).

12 “(2) SERVICES FOR WHICH A SEPARATE AFFIL-
13 IATE IS REQUIRED.—The services for which a sepa-
14 rate affiliate is required by paragraph (1) are:

15 “(A) Information services, including cable
16 services and alarm monitoring services, other
17 than any information service a Bell operating
18 company was authorized to provide before July
19 24, 1991.

20 “(B) Manufacturing services.

21 “(C) InterLATA services other than—

22 “(i) incidental services, not including
23 information services;

24 “(ii) out-of-region services; or

1 “(iii) services authorized under an
2 order entered by the United States District
3 Court for the District of Columbia pursu-
4 ant to the Modification of Final Judgment
5 before the date of enactment of the Tele-
6 communications Act of 1995.

7 “(b) STRUCTURAL AND TRANSACTIONAL REQUIRE-
8 MENTS.—The separate affiliate required by this section—

9 “(1) shall maintain books, records, and ac-
10 counts in the manner prescribed by the Commission
11 which shall be separate from the books, records, and
12 accounts maintained by the Bell operating company
13 of which it is an affiliate;

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

17 “(3) may not obtain credit under any arrange-
18 ment that would permit a creditor, upon default, to
19 have recourse to the assets of the Bell operating
20 company; and

21 “(4) shall conduct all transactions with the Bell
22 operating company of which it is an affiliate on an
23 arm’s length basis with any such transactions re-
24 duced to writing and available for public inspection.

1 “(c) NONDISCRIMINATION SAFEGUARDS.—In its deal-
 2 ings with its affiliate described in subsection (a) a Bell
 3 operating company—

4 “(1) may not discriminate between that com-
 5 pany or affiliate and any other entity in the provi-
 6 sion or procurement of goods, services, facilities, and
 7 information, or in the establishment of standards;

8 “(2) may not provide any goods, services, facili-
 9 ties, or information to such company or affiliate un-
 10 less the goods, services, facilities, or information are
 11 made available to other persons on reasonable and
 12 nondiscriminatory terms and conditions, unbundled
 13 to the smallest element that is technically feasible
 14 and economically reasonable to provide, and at just
 15 and reasonable rates that are not higher on a per-
 16 unit basis than those charged for such services to
 17 any affiliate of such company; and

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

21 “(d) BIENNIAL AUDIT.—

22 “(1) GENERAL REQUIREMENT.—A company re-
 23 quired to operate a separate affiliate under this sec-
 24 tion shall obtain and pay for a joint Federal/State
 25 audit every 2 years conducted by an independent

1 auditor selected by the Commission, and working at
2 the direction of, the Commission and the State com-
3 mission of each State in which such company pro-
4 vides service, to determine whether such company
5 has complied with this section and the regulations
6 promulgated under this section, and particularly
7 whether such company has complied with the sepa-
8 rate accounting requirements under subsection (b).

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

17 “(3) ACCESS TO DOCUMENTS.—For purposes of
18 conducting audits and reviews under this sub-
19 section—

20 “(A) the independent auditor, the Commis-
21 sion, and the State commission shall have ac-
22 cess to the financial accounts and records of
23 each company and of its affiliates necessary to
24 verify transactions conducted with that com-
25 pany that are relevant to the specific activities

1 permitted under this section and that are nec-
2 essary for the regulation of rates;

3 “(B) the Commission and the State com-
4 mission shall have access to the working papers
5 and supporting materials of any auditor who
6 performs an audit under this section; and

7 “(C) the State commission shall implement
8 appropriate procedures to ensure the protection
9 of any proprietary information submitted to it
10 under this section.

11 “(e) JOINT MARKETING.—

12 “(1) A Bell operating company affiliate re-
13 quired by this section may not market or sell tele-
14 phone exchange services provided by the Bell operat-
15 ing company unless that company permits other en-
16 tities offering the same or similar service to market
17 and sell its telephone exchange services.

18 “(2) A Bell operating company may not market
19 or sell any service provided by an affiliate required
20 by this section until that company has been author-
21 ized to provide interLATA services under section
22 255.

23 “(3) The joint marketing and sale of services
24 permitted under this subsection shall not be consid-

1 ered to violate the nondiscrimination provisions of
2 subsection (c).

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

5 “(1) shall fulfill any requests from an unaffili-
6 ated entity for exchange access service within a pe-
7 riod no longer than that in which it provides such
8 exchange access service to itself or to its affiliates;

9 “(2) shall fulfill any such requests with ex-
10 change access service of a quality that meets or ex-
11 ceeds the quality of exchange access service provided
12 by the Bell operating company to itself or its affili-
13 ate;

14 “(3) shall provide exchange access service to all
15 carriers at rates that are just, reasonable, not unrea-
16 sonably discriminatory, and based on costs;

17 “(4) shall not provide any facilities, services, or
18 information concerning its provision of exchange ac-
19 cess service to the affiliate described in subsection
20 (a) unless such facilities, services, or information are
21 made available to other providers of interLATA
22 services in that market on the same terms and con-
23 ditions;

24 “(5) shall charge the affiliate described in sub-
25 section (a), and impute to itself or any intraLATA

1 interexchange affiliate, the same rates for access to
2 its telephone exchange service and exchange access
3 service that it charges unaffiliated interexchange
4 carriers for such service; and

5 “(6) may provide any interLATA or intraLATA
6 facilities or services to its interLATA affiliate if such
7 services or facilities are made available to all carriers
8 at the same rates and on the same terms and condi-
9 tions so long as the costs are appropriately allocated.

10 “(g) PROPRIETARY INFORMATION.—

11 “(1) IN GENERAL.—In complying with the re-
12 quirements of this section, each Bell operating com-
13 pany and any affiliate of such company has a duty
14 to protect the confidentiality of propriety informa-
15 tion relating to other common carriers, to equipment
16 manufacturers, and to customers. A Bell operating
17 company may not share customer proprietary infor-
18 mation in aggregate form with its affiliates unless
19 such aggregate information is available to other car-
20 riers or persons under the same terms and condi-
21 tions. Individually identifiable customer proprietary
22 information and other proprietary information may
23 be—

24 “(A) shared with any affiliated entity re-
25 quired by this section or with any unaffiliated

1 entity only with the consent of the person to
2 which such information relates or from which it
3 was obtained (including other carriers); or

4 “(B) disclosed to appropriate authorities
5 pursuant to court order.

6 “(2) EXCEPTIONS.—Paragraph (1) does not
7 limit the disclosure of individually identifiable cus-
8 tomer proprietary information by each Bell operat-
9 ing company as necessary—

10 “(A) to initiate, render, bill, and collect for
11 telephone exchange service, interexchange serv-
12 ice, or telecommunications service requested by
13 a customer; or

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

19 “(3) SUBSCRIBER LIST INFORMATION.—For
20 purposes of this subsection, the term ‘customer pro-
21 prietary information’ does not include subscriber list
22 information.

23 “(h) COMMISSION MAY GRANT EXCEPTIONS.—The
24 Commission may grant an exception from compliance with
25 any requirement of this section upon a showing that the

1 exception is necessary for the public interest, convenience,
2 and necessity.

3 “(i) APPLICATION TO UTILITY COMPANIES.—

4 “(1) REGISTERED PUBLIC UTILITY HOLDING
5 COMPANY.—A registered company may provide tele-
6 communications services only through a separate
7 subsidiary company that is not a public utility com-
8 pany.

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

12 “(A) that is not a registered holding com-
13 pany, and

14 “(B) that provides telecommunications
15 service,

16 is required to provide that service through a sepa-
17 rate subsidiary company.

18 “(3) SAVINGS PROVISION.—Nothing in this sub-
19 section or the Telecommunications Act of 1995 pro-
20 hibits a public utility company from engaging in any
21 activity in which it is legally engaged on the date of
22 enactment of the Telecommunications Act of 1995;
23 provided it complies with the terms of any applicable
24 authorizations.

1 “(4) DEFINITIONS.—For purposes of this sub-
2 section, the terms ‘public utility company’, ‘associate
3 company’, ‘holding company’, ‘subsidiary company’,
4 ‘registered holding company’, and ‘State commission’
5 have the same meaning as they have in section 2 of
6 the Public Utility Holding Company Act of 1935.”.

7 (b) IMPLEMENTATION.—The Commission shall pro-
8 mulgate any regulations necessary to implement section
9 252 of the Communications Act of 1934 (as added by sub-
10 section (a)) not later than one year after the date of enact-
11 ment of this Act. Any separate affiliate established or des-
12 ignated for purposes of section 252(a) of the Communica-
13 tions Act of 1934 before the regulations have been issued
14 in final form shall be restructured or otherwise modified,
15 if necessary, to meet the requirements of those regula-
16 tions.

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

20 **SEC. 103. UNIVERSAL SERVICE.**

21 (a) FINDINGS.—The Congress finds that—

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

1 (2) this system has been predicated on rates es-
2 tablished by the Commission and the States that re-
3 quire implicit cost shifting by monopoly providers of
4 telephone exchange service through both local rates
5 and access charges to interexchange carriers;

6 (3) the advent of competition for the provision
7 of telephone exchange service has led to industry re-
8 quests that the existing system be modified to make
9 support for universal service explicit and to require
10 that all telecommunications carriers participate in
11 the modified system on a competitively neutral basis;
12 and

13 (4) modification of the existing system is nec-
14 essary to promote competition in the provision of
15 telecommunications services and to allow competition
16 and new technologies to reduce the need for univer-
17 sal service support mechanisms.

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

20 (1) Within one month after the date of enact-
21 ment of this Act, the Commission shall institute and
22 refer to a Federal-State Joint Board under section
23 410(c) of the Communications Act of 1934 a pro-
24 ceeding to recommend rules regarding the implemen-
25 tation of section 253 of that Act, including the defi-

1 nition of universal service. The Joint Board shall,
2 after notice and public comment, make its rec-
3 ommendations to the Commission no later than 9
4 months after the date of enactment of this Act.

5 (2) The Commission may periodically, but no
6 less than once every 4 years, institute and refer to
7 the Joint Board a proceeding to review the imple-
8 mentation of section 253 of that Act and to make
9 new recommendations, as necessary, with respect to
10 any modifications or additions that may be needed.
11 As part of any such proceeding the Joint Board
12 shall review the definition of, and adequacy of sup-
13 port for, universal service and shall evaluate the ex-
14 tent to which universal service has been protected
15 and advanced.

16 (c) COMMISSION ACTION.—The Commission shall ini-
17 tiate a single proceeding to implement recommendations
18 from the initial Joint Board required by subsection (a)
19 and shall complete such proceeding within 1 year after the
20 date of enactment of this Act. Thereafter, the Commission
21 shall complete any proceeding to implement recommenda-
22 tions from any further Joint Board required under sub-
23 section (b) within one year after receiving such rec-
24 ommendations.

1 (d) SEPARATIONS RULES.—Nothing in the amend-
2 ments made by this Act to the Communications Act of
3 1934 shall affect the Commission’s separations rules for
4 local exchange carriers or interexchange carriers in effect
5 on the date of enactment of this Act.

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

10 **“SEC. 253. UNIVERSAL SERVICE.**

11 “(a) UNIVERSAL SERVICE PRINCIPLES.—The Joint
12 Board and the Commission shall base policies for the pres-
13 ervation and advancement of universal service on the fol-
14 lowing principles:

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

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

20 “(3) Consumers in rural and high cost areas
21 should have access to telecommunications and infor-
22 mation services, including interexchange services,
23 that are reasonably comparable to those services
24 provided in urban areas.

1 “(4) Consumers in rural and high cost areas
2 should have access to telecommunications and infor-
3 mation services at rates that are reasonably com-
4 parable to rates charged for similar services in
5 urban areas.

6 “(5) Consumers in rural and high cost areas
7 should have access to the benefits of advanced tele-
8 communications and information services for health
9 care, education, economic development, and other
10 public purposes.

11 “(6) There should be a coordinated Federal-
12 State universal service system to preserve and ad-
13 vance universal service using specific and predictable
14 Federal and State mechanisms administered by an
15 independent, non-governmental entity or entities.

16 “(7) Elementary and secondary schools and
17 classrooms should have access to advanced tele-
18 communications services.

19 “(b) DEFINITION.—

20 “(1) IN GENERAL.—Universal service is an
21 evolving level of intrastate and interstate tele-
22 communications services that the Commission, based
23 on recommendations from the public, Congress, and
24 the Federal-State Joint Board periodically convened
25 under section 103 of the Telecommunications Act of

1 1995, and taking into account advances in tele-
2 communications and information technologies and
3 services, determines—

4 “(A) should be provided at just, reason-
5 able, and affordable rates to all Americans, in-
6 cluding those in rural and high cost areas and
7 those with disabilities;

8 “(B) are essential in order for Americans
9 to participate effectively in the economic, aca-
10 demic, medical, and democratic processes of the
11 Nation; and

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

15 “(2) DIFFERENT DEFINITION FOR CERTAIN
16 PURPOSES.—The Commission may establish a dif-
17 ferent definition of universal service for schools, li-
18 braries, and health care providers for the purposes
19 of section 264.

20 “(c) ALL TELECOMMUNICATIONS CARRIERS MUST
21 PARTICIPATE.—Every telecommunications carrier en-
22 gaged in intrastate, interstate, or foreign communication
23 shall participate, on an equitable and nondiscriminatory
24 basis, in the specific and predictable mechanisms estab-
25 lished by the Commission and the States to preserve and

1 advance universal service. Such participation shall be in
2 the manner determined by the Commission and the States
3 to be reasonably necessary to preserve and advance univer-
4 sal service. Any other provider of telecommunications may
5 be required to participate in the preservation and advance-
6 ment of universal service, if the public interest so requires.

7 “(d) STATE AUTHORITY.—A State may adopt regula-
8 tions to carry out its responsibilities under this section,
9 or to provide for additional definitions, mechanisms, and
10 standards to preserve and advance universal service within
11 that State, to the extent that such regulations do not con-
12 flict with the Commission’s rules to implement this sec-
13 tion. A State may only enforce additional definitions or
14 standards to the extent that it adopts additional specific
15 and predictable mechanisms to support such definitions or
16 standards.

17 “(e) ELIGIBILITY FOR UNIVERSAL SERVICE SUP-
18 PORT.—To the extent necessary to provide for specific and
19 predictable mechanisms to achieve the purposes of this
20 section, the Commission shall modify its existing rules for
21 the preservation and advancement of universal service.
22 Only essential telecommunications carriers designated
23 under section 214(d) shall be eligible to receive support
24 for the provision of universal service. Such support, if any,
25 shall accurately reflect what is necessary to preserve and

1 advance universal service in accordance with this section
2 and the other requirements of this Act.

3 “(f) UNIVERSAL SERVICE SUPPORT.—The Commis-
4 sion and the States shall have as their goal the need to
5 make any support for universal service explicit, and to tar-
6 get that support to those essential telecommunications
7 carriers that serve areas for which such support is nec-
8 essary. The specific and predictable mechanisms adopted
9 by the Commission and the States shall ensure that essen-
10 tial telecommunications carriers are able to provide uni-
11 versal service at just, reasonable, and affordable rates. A
12 carrier that receives universal service support shall use
13 that support only for the provision, maintenance, and up-
14 grading of facilities and services for which the support is
15 intended.

16 “(g) INTEREXCHANGE SERVICES.—The rates
17 charged by any provider of interexchange telecommuni-
18 cations service to customers in rural and high cost areas
19 shall be no higher than those charged by such provider
20 to its customers in urban areas.

21 “(h) SUBSIDY OF COMPETITIVE SERVICES PROHIB-
22 ITED.—A telecommunications carrier may not use services
23 that are not competitive to subsidize competitive services.
24 The Commission, with respect to interstate services, and
25 the States, with respect to intrastate services, shall estab-

1 lish any necessary cost allocation rules, accounting safe-
2 guards, and guidelines to ensure that services included in
3 the definition of universal service bear no more than a rea-
4 sonable share of the joint and common costs of facilities
5 used to provide those services.

6 “(i) CONGRESSIONAL NOTIFICATION REQUIRED.—

7 “(1) IN GENERAL.—The Commission may not
8 take action to require participation by telecommuni-
9 cations carriers or other providers of telecommuni-
10 cations under subsection (c), or to modify its rules
11 to increase support for the preservation and ad-
12 vancement of universal service, until—

13 “(A) the Commission submits to the Com-
14 mittee on Commerce, Science, and Transpor-
15 tation of the Senate and the Committee on
16 Commerce of the House of Representatives a
17 report on the participation required, or the in-
18 crease in support proposed, as appropriate; and

19 “(B) a period of 120 days has elapsed
20 since the date the report required under para-
21 graph (1) was submitted.

22 “(2) NOT APPLICABLE TO REDUCTIONS.—This
23 subsection shall not apply to any action taken to re-
24 duce costs to carriers or consumers.

1 “(j) EFFECT ON COMMISSION’S AUTHORITY.—Noth-
 2 ing in this section shall be construed to expand or limit
 3 the authority of the Commission to preserve and advance
 4 universal service under this Act.

5 “(k) EFFECTIVE DATE.—This section takes effect on
 6 the date of enactment of the Telecommunications Act of
 7 1995, except for subsections (c), (d), (e), (f), and (i) which
 8 take effect one year after the date of enactment of that
 9 Act.”.

10 (f) PROHIBITION ON EXCLUSION OF AREAS FROM
 11 SERVICE BASED ON RURAL LOCATION, HIGH COSTS, OR
 12 INCOME.—Part II of title II (47 U.S.C. 201 et seq.) as
 13 amended by this Act, is amended by adding after section
 14 253 the following:

15 **“SEC. 253A PROHIBITION ON EXCLUSION OF AREAS FROM**
 16 **SERVICE BASED ON RURAL LOCATION, HIGH**
 17 **COSTS, OR INCOME.**

18 “(a) The Commission shall prohibit any telecommuni-
 19 cations carrier from excluding from any of such carrier’s
 20 services any high-cost area, or any area on the basis of
 21 the rural location or the income of the residents of such
 22 area: *Provided*, That a carrier may exclude an area in
 23 which the carrier can demonstrate that—

24 “(1) there will be insufficient consumer demand
 25 for the carrier to earn some return over the long

1 term on the capital invested to provide such service
 2 to such area, and—

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

7 “(b) The Commission shall provide for public com-
 8 ment on the adequacy of the carrier’s proposed service
 9 area on the basis of the requirements of this section.”.

10 **SEC. 104. ESSENTIAL TELECOMMUNICATIONS CARRIERS.**

11 (a) IN GENERAL.—Section 214(d) (47 U.S.C.
 12 214(d)) is amended—

13 (1) by inserting “(1) ADEQUATE FACILITIES
 14 REQUIRED.—” before “The Commission”; and

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

16 “(2) DESIGNATION OF ESSENTIAL CARRIER.— If one
 17 or more common carriers provide telecommunications
 18 service to a geographic area, and no common carrier will
 19 provide universal service to an unserved community or any
 20 portion thereof that requests such service within such
 21 area, then the Commission, with respect to interstate serv-
 22 ices, or a State, with respect to intrastate services, shall
 23 determine which common carrier serving that area is best
 24 able to provide universal service to the requesting unserved
 25 community or portion thereof, and shall designate that

1 common carrier as an essential telecommunications carrier
2 for that unserved community or portion thereof.

3 “(3) ESSENTIAL CARRIER OBLIGATIONS.—A common
4 carrier may be designated by the Commission, or by a
5 State, as appropriate, as an essential telecommunications
6 carrier for a specific service area and become eligible to
7 receive universal service support under section 253. A car-
8 rier designated as an essential telecommunications carrier
9 shall—

10 “(A) provide through its own facilities or
11 through a combination of its own facilities and re-
12 sale of services using another carrier’s facilities, uni-
13 versal service and any additional service (such as
14 911 service) required by the Commission or the
15 State, to any community or portion thereof which re-
16 quests such service;

17 “(B) offer such services at nondiscriminatory
18 rates established by the Commission, for interstate
19 services, and the State, for intrastate services,
20 throughout the service area; and

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

24 “(4) MULTIPLE ESSENTIAL CARRIERS.—If the Com-
25 mission, with respect to interstate services, or a State,

1 with respect to intrastate services, designates more than
2 one common carrier as an essential telecommunications
3 carrier for a specific service area, such carrier shall meet
4 the service, rate, and advertising requirements imposed by
5 the Commission or State on any other essential tele-
6 communications carrier for that service area. A State shall
7 require that, before designating an additional essential
8 telecommunications carrier, the State agency authorized
9 to make the designation shall find that—

10 “(A) the designation of an additional essential
11 telecommunications carrier is in the public interest
12 and that there will not be a significant adverse im-
13 pact on users of telecommunications services or on
14 the provision of universal service;

15 “(B) the designation encourages the develop-
16 ment and deployment of advanced telecommuni-
17 cations infrastructure and services in rural areas;
18 and

19 “(C) the designation protects the public safety
20 and welfare, ensures the continued quality of tele-
21 communications services, or safeguards the rights of
22 consumers.

23 “(5) RESALE OF UNIVERSAL SERVICE.—The Com-
24 mission, for interstate services, and the States, for intra-
25 state services, shall establish rules to govern the resale of

1 universal service to allocate any support received for the
2 provision of such service in a manner that ensures that
3 the carrier whose facilities are being resold is adequately
4 compensated for their use, taking into account the impact
5 of the resale on that carrier's ability to maintain and de-
6 ploy its network as a whole. The Commission shall also
7 establish, based on the recommendations of the Federal-
8 State Joint Board instituted to implement this section,
9 rules to permit a carrier designated as an essential tele-
10 communications carrier to relinquish that designation for
11 a specific service area if another telecommunications car-
12 rier is also designated as an essential telecommunications
13 carrier for that area. The rules—

14 “(A) shall ensure that all customers served by
15 the relinquishing carrier continue to be served, and
16 shall require sufficient notice to permit the purchase
17 or construction of adequate facilities by any remain-
18 ing essential telecommunications carrier if such re-
19 maining carrier provided universal service through
20 resale of the facilities of the relinquishing carrier;
21 and

22 “(B) shall establish criteria for determining
23 when a carrier which intends to utilize resale to
24 meet the requirements for designation under this
25 subsection has adequate resources to purchase, con-

1 struct, or otherwise obtain the facilities necessary to
2 meet its obligation if the reselling carrier is no
3 longer able or obligated to resell the service.

4 “(6) ENFORCEMENT.—A common carrier designated
5 by the Commission or a State as an essential telecommuni-
6 cations carrier that refuses to provide universal service
7 within a reasonable period to an unserved community or
8 portion thereof which requests such service shall forfeit
9 to the United States, in the case of interstate services,
10 or the State, in the case of intrastate services, a sum of
11 up to \$10,000 for each day that such carrier refuses to
12 provide such service. In determining a reasonable period
13 the Commission or the State, as appropriate, shall con-
14 sider the nature of any construction required to serve such
15 requesting unserved community or portion thereof, as well
16 as the construction intervals normally attending such con-
17 struction, and shall allow adequate time for regulatory ap-
18 provals and acquisition of necessary financing.

19 “(7) INTEREXCHANGE SERVICES.—The Commission,
20 for interstate services, or a State, for intrastate services,
21 shall designate an essential telecommunications carrier for
22 interexchange services for any unserved community or por-
23 tion thereof requesting such services. Any common carrier
24 designated as an essential telecommunications carrier for
25 interexchange services under this paragraph shall provide

1 interexchange services included in universal service to any
2 unserved community or portion thereof which requests
3 such service. The service shall be provided at nationwide
4 geographically averaged rates for interstate interexchange
5 services and at geographically averaged rates for intra-
6 state interexchange services, and shall be just and reason-
7 able and not unjustly or unreasonably discriminatory. A
8 common carrier designated as an essential telecommuni-
9 cations carrier for interexchange services under this para-
10 graph that refuses to provide interexchange service in ac-
11 cordance with this paragraph to an unserved community
12 or portion thereof that requests such service within 180
13 days of such request shall forfeit to the United States a
14 sum of up to \$50,000 for each day that such carrier re-
15 fuses to provide such service. The Commission or the
16 State, as appropriate, may extend the 180-day period for
17 providing interexchange service upon a showing by the
18 common carrier of good faith efforts to comply within such
19 period.

20 “(8) IMPLEMENTATION.—The Commission may, by
21 regulation, establish guidelines by which States may im-
22 plement the provisions of this section.”.

23 (b) CONFORMING AMENDMENT.—The heading for
24 section 214 is amended by inserting a semicolon and “es-
25 sential telecommunications carriers” after “lines”.

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

10 **SEC. 105. FOREIGN INVESTMENT AND OWNERSHIP RE-**
 11 **FORM.**

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

15 “(f) TERMINATION OF FOREIGN OWNERSHIP RE-
 16 STRICTIONS.—

17 “(1) RESTRICTION NOT TO APPLY WHERE RECI-
 18 PROCITY FOUND.—Subsection (b) shall not apply to
 19 any common carrier license held, or for which appli-
 20 cation is made, after the date of enactment of the
 21 Telecommunications Act of 1995 with respect to any
 22 alien (or representative thereof), corporation, or for-
 23 eign government (or representative thereof) if the
 24 Commission determines that the foreign country of
 25 which such alien is a citizen, in which such corpora-

1 tion is organized, or in which such foreign govern-
2 ment is in control provides equivalent market oppor-
3 tunities for common carriers to citizens of the Unit-
4 ed States (or their representatives), corporations or-
5 ganized in the United States, and the United States
6 Government (or its representative): *Provided*, That
7 the President does not object within 15 days of such
8 determination. If the President objects to a deter-
9 mination, the President shall, immediately upon
10 such objection, submit to Congress a written report
11 (in unclassified form, but with a classified annex if
12 necessary) that sets forth a detailed explanation of
13 the findings made and factors considered in object-
14 ing to the determination. The determination of
15 whether market opportunities are equivalent shall be
16 made on a market segment specific basis within 180
17 days after the application is filed. While determining
18 whether such opportunities are equivalent on that
19 basis, the Commission shall also conduct an evalua-
20 tion of opportunities for access to all segments of
21 the telecommunications market of the applicant.

22 “(2) SNAPBACK FOR RECIPROCITY FAILURE.—
23 If the Commission determines that any foreign coun-
24 try with respect to which it has made a determina-

1 tion under paragraph (1) ceases to meet the require-
2 ments for that determination, then—

3 “(A) subsection (b) shall apply with re-
4 spect to such aliens, corporations, and govern-
5 ment (or their representatives) on the date on
6 which the Commission publishes notice of its
7 determination under this paragraph, and

8 “(B) any license held, or application filed,
9 which could not be held or granted under sub-
10 section (b) shall be withdrawn, or denied, as the
11 case may be, by the Commission under the pro-
12 visions of subsection (b).”.

13 (b) CONFORMING AMENDMENT.—Section 332(c)(6)
14 (47 U.S.C. 332(c)(6)) is amended by adding at the end
15 thereof the following:

16 “‘This paragraph does not apply to any foreign own-
17 ership interest or transfer of ownership to which sec-
18 tion 310(b) does not apply because of section
19 310(f).”.

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

1 **SEC. 106. INFRASTRUCTURE SHARING.**

2 (a) REGULATIONS REQUIRED.—The Commission
3 shall prescribe, within one year after the date of enact-
4 ment of this Act, regulations that require local exchange
5 carriers that were subject to Part 69 of the Commission's
6 rules on or before that date to make available to any quali-
7 fying carrier such public switched network infrastructure,
8 technology, information, and telecommunications facilities
9 and functions as may be requested by such qualifying car-
10 rier for the purpose of enabling such qualifying carrier to
11 provide telecommunications services, or to provide access
12 to information services, in the service area in which such
13 qualifying carrier has requested and obtained designation
14 as an essential telecommunications carrier under section
15 214(d) and provides universal service by means of its own
16 facilities.

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

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

24 (2) permit, but shall not require, the joint own-
25 ership or operation of public switched network infra-

1 structure and services by or among such local ex-
2 change carrier and a qualifying carrier;

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

10 (4) ensure that such local exchange carrier
11 makes such infrastructure, technology, information,
12 facilities, or functions available to a qualifying car-
13 rier on just and reasonable terms and conditions
14 that permit such qualifying carrier to fully benefit
15 from the economies of scale and scope of such local
16 exchange carrier, as determined in accordance with
17 guidelines prescribed by the Commission in regula-
18 tions issued pursuant to this section;

19 (5) establish conditions that promote coopera-
20 tion between local exchange carriers to which this
21 section applies and qualifying carriers;

22 (6) not require a local exchange carrier to
23 which this section applies to engage in any infra-
24 structure sharing agreement for any services or ac-
25 cess which are to be provided or offered to consum-

1 ers by the qualifying carrier in such local exchange
2 carrier's telephone exchange area; and

3 (7) require that such local exchange carrier file
4 with the Commission or State for public inspection,
5 any tariffs, contracts, or other arrangements show-
6 ing the rates, terms, and conditions under which
7 such carrier is making available public switched net-
8 work infrastructure and functions under this section.

9 (c) INFORMATION CONCERNING DEPLOYMENT OF
10 NEW SERVICES AND EQUIPMENT.—A local exchange car-
11 rier to which this section applies that has entered into an
12 infrastructure sharing agreement under this section shall
13 provide to each party to such agreement timely informa-
14 tion on the planned deployment of telecommunications
15 services and equipment, including any software or up-
16 grades of software integral to the use or operation of such
17 telecommunications equipment.

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

19 (1) QUALIFYING CARRIER.—The term “qualify-
20 ing carrier” means a telecommunications carrier
21 that—

22 (A) lacks economies of scale or scope, as
23 determined in accordance with regulations pre-
24 scribed by the Commission pursuant to this sec-
25 tion; and

1 (B) is a common carrier which offers tele-
2 phone exchange service, exchange access serv-
3 ice, and any other service that is included in
4 universal service, to all consumers without pref-
5 erence throughout the service area for which
6 such carrier has been designated as an essential
7 telecommunications carrier under section
8 214(d) of the Communications Act of 1934.

9 (2) OTHER TERMS.—Any term used in this sec-
10 tion that is defined in the Communications Act of
11 1934 has the same meaning as it has in that Act.

12 **SEC. 107. COORDINATION FOR TELECOMMUNICATIONS**
13 **NETWORK-LEVEL INTEROPERABILITY.**

14 (a) IN GENERAL.—To promote nondiscriminatory ac-
15 cess to telecommunications networks by the broadest num-
16 ber of users and vendors of communications products and
17 services through—

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

21 (2) interconnection of telecommunications net-
22 works, and of devices with such networks, to ensure
23 the ability of users and information providers to
24 seamlessly and transparently transmit and receive

1 information between and across telecommunications
 2 networks,
 3 the Commission may participate, in a manner consistent
 4 with its authority and practice prior to the date of enact-
 5 ment of this Act, in the development by appropriate vol-
 6 untary industry standards-setting organizations to pro-
 7 mote telecommunications network-level interoperability.

8 (b) DEFINITION OF TELECOMMUNICATIONS NET-
 9 WORK-LEVEL INTEROPERABILITY.—As used in this sec-
 10 tion, the term “telecommunications network-level inter-
 11 operability” means the ability of 2 or more telecommuni-
 12 cations networks to communicate and interact in concert
 13 with each other to exchange information without degenera-
 14 tion.

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

18 TITLE II—REMOVAL OF RESTRICTIONS TO 19 COMPETITION

20 **Subtitle A—Removal of Restrictions**

21 **SEC. 201. REMOVAL OF ENTRY BARRIERS.**

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

1 **“SEC. 254. REMOVAL OF BARRIERS TO ENTRY.**

2 “(a) IN GENERAL.—No State or local statute or reg-
3 ulation, or other State or local legal requirement, may pro-
4 hibit or have the effect of prohibiting the ability of any
5 entity to provide any interstate or intrastate telecommuni-
6 cations services.

7 “(b) STATE REGULATORY AUTHORITY.—Nothing in
8 this section shall affect the ability of a State to impose,
9 on a competitively neutral basis and consistent with sec-
10 tion 253, requirements necessary to preserve and advance
11 universal service, protect the public safety and welfare, en-
12 sure the continued quality of telecommunications services,
13 and safeguard the rights of consumers.

14 “(c) STATE AND LOCAL GOVERNMENT AUTHOR-
15 ITY.—Nothing in this section affects the authority of a
16 State or local government to manage the public rights-of-
17 way or to require fair and reasonable compensation from
18 telecommunications providers, on a competitively neutral
19 and nondiscriminatory basis, for use of public rights-of-
20 way on a nondiscriminatory basis, if the compensation re-
21 quired is publicly disclosed by such government.

22 “(d) PREEMPTION.—If, after notice and an oppor-
23 tunity for public comment, the Commission determines
24 that a State or local government has permitted or imposed
25 any statute, regulation, or legal requirement that violates
26 subsection (a) or (b), the Commission shall preempt the

1 enforcement of such statute, regulation, or legal require-
2 ment to the extent necessary to correct such violation or
3 inconsistency.

4 “(e) COMMERCIAL MOBILE SERVICES PROVIDERS.—
5 Nothing in this section shall affect the application of sec-
6 tion 332(c)(3) to commercial mobile services providers.”.

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

9 (1) JURISDICTION OF FRANCHISING AUTHOR-
10 ITY.—Section 621(b) (47 U.S.C. 541(b)) is amended
11 by adding at the end thereof the following new para-
12 graph:

13 “(3)(A) To the extent that a cable operator or
14 affiliate thereof is engaged in the provision of tele-
15 communications services—

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

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

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

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

6 “(D) Nothing in this paragraph affects existing
7 Federal or State authority with respect to tele-
8 communications services.”.

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

13 (c) STATE AND LOCAL TAX LAWS.—Except as pro-
14 vided in section 202, nothing in this Act (or in the Com-
15 munications Act of 1934 as amended by this Act) shall
16 be construed to modify, impair, or supersede, or authorize
17 the modification, impairment, or supersession of, any
18 State or local law pertaining to taxation that is consistent
19 with the requirements of the Constitution of the United
20 States, this Act, the Communications Act of 1934, or any
21 other applicable Federal law.

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

1 **SEC. 202. ELIMINATION OF CABLE AND TELEPHONE COM-**
2 **PANY CROSS-OWNERSHIP RESTRICTION.**

3 (a) IN GENERAL.—Section 613(b) (47 U.S.C.
4 533(b)) is amended to read as follows:

5 “(b) VIDEO PROGRAMMING AND CABLE SERVICES.—

6 “(1) DISTINCTION BETWEEN VIDEO PLATFORM
7 AND CABLE SERVICE.—To the extent that any tele-
8 communications carrier carries video programming
9 provided by others, or provides video programming
10 that it owns, controls, or selects directly to subscrib-
11 ers, through a common carrier video platform, nei-
12 ther the telecommunications carrier nor any video
13 programming provider making use of such platform
14 shall be deemed to be a cable operator providing
15 cable service. To the extent that any telecommuni-
16 cations carrier provides video programming directly
17 to subscribers through a cable system, the carrier
18 shall be deemed to be a cable operator providing
19 cable service.

20 “(2) BELL OPERATING COMPANY ACTIVITIES.—

21 “(A) Notwithstanding the provisions of
22 section 252, to the extent that a Bell operating
23 company carries video programming provided
24 by others or provides video programming that it
25 owns, controls, or selects over a common carrier

1 video platform, it need not use a separate affili-
2 ate if—

3 “(i) the carrier provides facilities,
4 services, or information to all programmers
5 on the same terms and conditions as it
6 provides such facilities, services, or infor-
7 mation to its own video programming oper-
8 ations, and

9 “(ii) the carrier does not use its tele-
10 communications services to subsidize its
11 provision of video programming.

12 “(B) To the extent that a Bell operating
13 company provides cable service as a cable oper-
14 ator, it shall provide such service through an af-
15 filiate that meets the requirements of section
16 252 (a), (b), and (d) and the Bell operating
17 company’s telephone exchange services and ex-
18 change access services shall meet the require-
19 ments of subparagraph (A)(ii) and section
20 252(c); except that, to the extent the Bell oper-
21 ating company provides cable service utilizing
22 its own telephone exchange facilities, section
23 252(c) shall not require the Bell operating com-
24 pany to make video programming services ca-

1 pacity available on a non-discriminatory basis
2 to other video programming services providers.

3 “(C) Upon a finding by the Commission
4 that the requirement of a separate affiliate
5 under the preceding subparagraph is no longer
6 necessary to protect consumers, competition, or
7 the public interest, the Commission shall ex-
8 empt a Bell operating company from that re-
9 quirement.

10 “(3) COMMON CARRIER VIDEO PLATFORM.—
11 Nothing in this Act precludes a telecommunications
12 carrier from carrying video programming provided
13 by others directly to subscribers over a common car-
14 rier video platform. Nothing in this Act precludes a
15 video programming provider making use of a com-
16 mon carrier video platform from being treated as an
17 operator of a cable system for purposes of section
18 111 of title 17, United States Code.

19 “(4) RATES; ACCESS.—Notwithstanding para-
20 graph (2)(A)(i), a provider of common carrier video
21 platform services shall provide local broadcast sta-
22 tions, and to those public, educational, and govern-
23 mental entities required by local franchise authori-
24 ties to be given access to cable systems operating in
25 the same market as the common carrier video plat-

1 form, with access to that platform for the trans-
 2 mission of television broadcast programming at rates
 3 no higher than the incremental-cost-based rates of
 4 providing such access. Local broadcast stations shall
 5 be entitled to obtain access on the first tier of pro-
 6 gramming on the common carrier video platform. If
 7 the area covered by the common carrier video plat-
 8 form includes more than one franchising area, then
 9 the Commission shall determine the number of chan-
 10 nels allocated to public, educational, and govern-
 11 mental entities that may be eligible for such rates
 12 for that platform.

13 “(5) COMPETITIVE NEUTRALITY.—A provider
 14 of video programming may be required to pay fees
 15 in lieu of franchise fees (as defined in section
 16 622(g)(1)) if the fees—

17 “(A) are competitively neutral; and

18 “(B) are separately identified in consumer
 19 billing.

20 “(6) ACQUISITIONS; JOINT VENTURES; PART-
 21 NERSHIPS; JOINT USE OF FACILITIES.—

22 “(A) LOCAL EXCHANGE CARRIERS.—No
 23 local exchange carrier or any affiliate of such
 24 carrier owned by, operated by, controlled by, or
 25 under common control with such carrier may

1 purchase or otherwise acquire more than a 10
2 percent financial interest, or any management
3 interest, in any cable operator providing cable
4 service within the local exchange carrier's tele-
5 phone service area.

6 “(B) CABLE OPERATORS.—No cable opera-
7 tor or affiliate of a cable operator that is owned
8 by, operated by, controlled by, or under com-
9 mon ownership with such cable operator may
10 purchase or otherwise acquire, directly or indi-
11 rectly, more than a 10 percent financial inter-
12 est, or any management interest, in any local
13 exchange carrier providing telephone exchange
14 service within such cable operator's franchise
15 area.

16 “(C) JOINT VENTURE.—A local exchange
17 carrier and a cable operator whose telephone
18 service area and cable franchise area, respec-
19 tively, are in the same market may not enter
20 into any joint venture or partnership to provide
21 video programming directly to subscribers or to
22 provide telecommunications services within such
23 market.

24 “(D) EXCEPTION.—Notwithstanding sub-
25 paragraphs (A), (B), and (C) of this paragraph,

1 a local exchange carrier (with respect to a cable
2 system located in its telephone service area) and
3 a cable operator (with respect to the facilities of
4 a local exchange carrier used to provide tele-
5 phone exchange service in its cable franchise
6 area) may obtain a controlling interest in, man-
7 agement interest in, or enter into a joint ven-
8 ture or partnership with such system or facili-
9 ties to the extent that such system or facilities
10 only serve incorporated or unincorporated—

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

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

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

21 “(i) the incumbent cable operator or
22 local exchange carrier would be subjected
23 to undue economic distress by the enforce-
24 ment of such provisions,

1 “(ii) the system or facilities would not
2 be economically viable if such provisions
3 were enforced, or

4 “(iii) the anticompetitive effects of the
5 proposed transaction are clearly out-
6 weighed in the public interest by the prob-
7 able effect of the transaction in meeting
8 the convenience and needs of the commu-
9 nity to be served.

10 “(F) JOINT USE.—Notwithstanding sub-
11 paragraphs (A), (B), and (C), a telecommuni-
12 cations carrier may obtain within such carrier’s
13 telephone service area, with the concurrence of
14 the cable operator on the rates, terms, and con-
15 ditions, the use of that portion of the trans-
16 mission facilities of such a cable system extend-
17 ing from the last multiuser terminal to the
18 premises of the end user in excess of the capac-
19 ity that the cable operator uses to provide its
20 own cable services. A cable operator that pro-
21 vides access to such portion of its transmission
22 facilities to one telecommunications carrier shall
23 provide nondiscriminatory access to such por-
24 tion of its transmission facilities to any other

1 telecommunications carrier requesting such ac-
2 cess.

3 “(G) SAVINGS CLAUSE.—Nothing in this
4 paragraph affects—

5 “(i) the authority of a local franchis-
6 ing authority (in the case of the purchase
7 or acquisition of a cable operator, or a
8 joint venture to provide cable service) or a
9 State Commission (in the case of the ac-
10 quisition of a local exchange carrier, or a
11 joint venture to provide telephone exchange
12 service) to approve or disapprove a pur-
13 chase, acquisition, or joint venture, or

14 “(ii) the antitrust laws, as described
15 in section 7(a) of the Telecommunications
16 Competition and Deregulation Act of
17 1995.”.

18 (b) NO PERMIT REQUIRED FOR VIDEO PROGRAM-
19 MING SERVICES.—Section 214 (47 U.S.C. 214) is amend-
20 ed by adding at the end thereof the following:

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

1 (c) SAFEGUARDS.—Within one year after the date of
2 enactment of this Act, the Commission shall prescribe reg-
3 ulations that—

4 (1) require a telecommunications carrier that
5 provides video programming directly to subscribers
6 to ensure that subscribers are offered the means to
7 obtain access to the signals of local broadcast tele-
8 vision stations identified under section 614 as read-
9 ily as they are today;

10 (2) require such a carrier to display clearly and
11 prominently at the beginning of any program guide
12 or menu of program offerings the identity of any
13 signal of any television broadcast station that is car-
14 ried by the carrier;

15 (3) require such a carrier to ensure that viewers
16 are able to access the signal of any television broad-
17 cast station that is carried by that carrier without
18 first having to view advertising or promotional mate-
19 rial, or a navigational device, guide, or menu that
20 omits broadcasting services as an available option;

21 (4) except as required by paragraphs (1)
22 through (3), prohibit such carrier and a multi-
23 channel video programming distributor using the fa-
24 cilities of such carrier from discriminating among
25 video programming providers with respect to mate-

1 rial or information provided by the carrier to sub-
2 scribers for the purposes of selecting programming,
3 or in the way such material or information is pre-
4 sented to subscribers;

5 (5) require such carrier and a multichannel
6 video programming distributor using the facilities of
7 such carrier to ensure that video programming pro-
8 viders or copyright holders (or both) are able suit-
9 ably and uniquely to identify their programming
10 services to subscribers;

11 (6) if such identification is transmitted as part
12 of the programming signal, require a telecommuni-
13 cations carrier that provides video programming di-
14 rectly to subscribers and a multichannel video pro-
15 gramming distributor using the facilities of such car-
16 rier to transmit such identification without change
17 or alteration;

18 (7) prohibit such carrier from discriminating
19 among video programming providers with regard to
20 carriage and ensure that the rates, terms, and condi-
21 tions for such carriage are just, reasonable, and non-
22 discriminatory;

23 (8) extend to such carriers and multichannel
24 video programming distributors using the facilities
25 of such carrier the Commission's regulations con-

1 cerning network nonduplication (47 C.F.R. 76.92 et
2 seq.) and syndicated exclusivity (47 C.F.R. 76.171
3 et seq.); and

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

10 (d) ENFORCEMENT.—The Commission shall resolve
11 disputes under subsection (c) and the regulations pre-
12 scribed under that subsection. Any such dispute shall be
13 resolved with 180 days after notice of the dispute is sub-
14 mitted to the Commission. At that time, or subsequently
15 in a separate proceeding, the Commission may award
16 damages sustained in consequence of any violation of this
17 section to any person denied carriage, or require carriage,
18 or both. Any aggrieved party may also seek any other rem-
19 edy available under the law.

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

1 **SEC. 203. CABLE ACT REFORM.**

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

10 (b) RATE DEREGULATION.—

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

13 (A) by striking “subscriber,” and the
14 comma after “authority” in paragraph (1)(B);

15 (B) by striking paragraph (2) and insert-
16 ing the following:

17 “(2) STANDARD FOR UNREASONABLE RATES.—

18 The Commission may only consider a rate for cable
19 programming services to be unreasonable if it sub-
20 stantially exceeds the national average rate for com-
21 parable cable programming services provided by
22 cable systems other than small cable systems, deter-
23 mined on a per-channel basis as of June 1, 1995,
24 and redetermined, and adjusted if necessary, every 2
25 years thereafter.”.

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

3 (A) by striking “or” at the end of subpara-
4 graph (B);

5 (B) by striking the period at the end of
6 subparagraph (C) and inserting a semicolon
7 and “or”; and

8 (C) by adding at the end the following:

9 “(D) a local exchange carrier offers video
10 programming services directly to subscribers, ei-
11 ther over a common carrier video platform or as
12 a cable operator, in the franchise area of an un-
13 affiliated cable operator which is providing
14 cable service in that franchise area, but only if
15 the video programming services offered by the
16 carrier in that area are comparable to the video
17 programming services provided by the unaffili-
18 ated cable operator in that area.”.

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

22 “(m) SPECIAL RULES FOR SMALL COMPANIES.—

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

1 “(A) cable programming services, or

2 “(B) a basic service tier that was the only
3 service tier subject to regulation as of Decem-
4 ber 31, 1994,

5 in any franchise area in which that operator serves
6 35,000 or fewer subscribers.

7 “(2) DEFINITION OF SMALL CABLE OPERA-
8 TOR.—For purposes of this subsection, the term
9 ‘small cable operator’ means a cable operator that,
10 directly or through an affiliate, serves in the aggre-
11 gate fewer than 1 percent of all subscribers in the
12 United States and is not affiliated with any entity
13 or entities whose gross annual revenues in the aggre-
14 gate exceed \$250,000,000.”.

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

17 “(j) COMMON CARRIERS.—Any provision that applies
18 to a cable operator under this section shall apply to a tele-
19 communications carrier or its affiliate that provides video
20 programming by any means directly to subscribers. Any
21 such provision that applies to a satellite cable program-
22 ming vendor in which a cable operator has an attributable
23 interest shall apply to any satellite cable programming
24 vendor in which such common carrier has an attributable
25 interest.”.

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

3 (1) IN GENERAL.—Section 614(h)(1)(C)(iv) (47
4 U.S.C. 614(h)(1)(C)(iv)) is amended to read as fol-
5 lows:

6 “(iv) Within 120 days after the date
7 on which a request is filed under this sub-
8 paragraph, the Commission shall grant or
9 deny the request.”.

10 (2) APPLICATION TO PENDING REQUESTS.—

11 The amendment made by paragraph (1) shall apply
12 to—

13 (A) any request pending under section
14 614(h)(1)(C) of the Communications Act of
15 1934 (47 U.S.C. 614(h)(1)(C)) on the date of
16 enactment of this Act; and

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

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

22 **SEC. 204. POLE ATTACHMENTS.**

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

24 (1) by inserting the following after subsection

25 (a)(4):

1 “(5) The term ‘telecommunications carrier’
2 shall have the meaning given such term in sub-
3 section 3(nn) of this Act, except that, for purposes
4 of this section, the term shall not include any person
5 classified by the Commission as a dominant provider
6 of telecommunications services as of January 1,
7 1995.”;

8 (2) by inserting after “conditions” in subsection
9 (c)(1) a comma and the following: “or access to
10 poles, ducts, conduits, and rights-of-way as provided
11 in subsection (f),”;

12 (3) by inserting after subsection (d)(2) the fol-
13 lowing:

14 “(3) This subsection shall apply to the rate for
15 any pole attachment used by a cable television sys-
16 tem solely to provide cable service. Until the effec-
17 tive date of the regulations required under sub-
18 section (e), this subsection shall also apply to the
19 pole attachment rates for cable television systems
20 (or for any telecommunications carrier that was not
21 a party to any pole attachment agreement prior to
22 the date of enactment of the Telecommunications
23 Act of 1995) to provide any telecommunications
24 service or any other service subject to the jurisdic-
25 tion of the Commission.”; and

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

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

10 “(2) A utility shall apportion the cost of provid-
11 ing space on a pole, duct, conduit, or right-of-way
12 other than the usable space among entities so that
13 such apportionment equals the sum of—

14 “(A) two-thirds of the costs of providing
15 space other than the usable space that would be
16 allocated to such entity under an equal appor-
17 tionment of such costs among all attachments,
18 plus

19 “(B) the percentage of usable space re-
20 quired by each such entity multiplied by the
21 costs of space other than the usable space;

22 but in no event shall such proportion exceed the
23 amount that would be allocated to such entity under
24 an equal apportionment of such costs among all at-
25 tachments.

1 “(3) A utility shall apportion the cost of provid-
2 ing usable space among all entities according to the
3 percentage of usable space required for each entity.
4 Costs shall be apportioned between the usable space
5 and the space on a pole, duct, conduit, or right-of-
6 way other than the usable space on a proportionate
7 basis.

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

16 “(f)(1) A utility shall provide a cable television sys-
17 tem or any telecommunications carrier with nondiscrim-
18 inatory access to any pole, duct, conduit, or right-of-way
19 owned or controlled by it.

20 “(2) Notwithstanding paragraph (1), a utility provid-
21 ing electric service may deny a cable television system or
22 telecommunications carrier access to its poles, ducts, con-
23 duits, or rights-of-way, on a non-discriminatory basis
24 where there is insufficient capacity and for reasons of

1 safety, reliability, and generally applicable engineering
2 purposes.

3 “(g) A utility that engages in the provision of tele-
4 communications services shall impute to its costs of pro-
5 viding such services (and charge any affiliate, subsidiary,
6 or associate company engaged in the provision of such
7 services) an amount equal to the pole attachment rate for
8 which such company would be liable under this section.”.

9 **SEC. 205. ENTRY BY UTILITY COMPANIES.**

10 (a) IN GENERAL.—

11 (1) AUTHORIZED ACTIVITIES OF UTILITIES.—

12 Notwithstanding any other provision of law to the
13 contrary (including the Public Utility Holding Com-
14 pany Act of 1935 (15 U.S.C. 79a et seq.)), an elec-
15 tric, gas, water, or steam utility, and any subsidiary
16 company, affiliate, or associate company of such a
17 utility, other than a public utility company that is an
18 associate company of a registered holding company,
19 may engage, directly or indirectly, in any activity
20 whatsoever, wherever located, necessary or appro-
21 priate to the provision of—

22 (A) telecommunications services,

23 (B) information services,

24 (C) other services or products subject to
25 the jurisdiction of the Federal Communications

1 Commission under the Communications Act of
2 1934 (47 U.S.C. 151 et seq.), or

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

6 (2) REMOVAL OF SEC JURISDICTION.—The Se-
7 curities and Exchange Commission has no jurisdic-
8 tion under the Public Utility Holding Company Act
9 of 1935 (15 U.S.C. 79a et seq.) over a holding com-
10 pany, or a subsidiary company, affiliate, or associate
11 company of a holding company, to grant any author-
12 ization to enforce any requirement with respect to,
13 or approve or otherwise review, any activity de-
14 scribed in paragraph (1), including financing, invest-
15 ing in, acquiring, or maintaining any interest in, or
16 entering into affiliate transactions or contracts, and
17 any authority over audits or access to books and
18 records.

19 (3) APPLICABILITY OF TELECOMMUNICATIONS
20 REGULATION.—Nothing in this section shall affect
21 the authority of the Federal Communications Com-
22 mission under the Communications Act of 1934, or
23 the authority of State commissions under State laws
24 concerning the provision of telecommunications serv-
25 ices, to regulate the activities of an associate com-

1 pany engaged in activities described in paragraph
2 (1).

3 (4) COMMISSION RULES.—The Commission
4 shall consider and adopt, as necessary, rules to pro-
5 tect the customers of a public utility company that
6 is a subsidiary company of a registered holding com-
7 pany against potential detriment from the tele-
8 communications activities of any other subsidiary of
9 such registered holding company.

10 (b) PROHIBITION OF CROSS-SUBSIDIZATION.—Noth-
11 ing in the Public Utility Holding Company Act of 1935
12 shall preclude the Federal Energy Regulatory Commission
13 or a State commission from exercising its jurisdiction
14 under otherwise applicable law to determine whether a
15 public utility company may recover in rates the costs of
16 any activity described in subsection (a)(1) which is per-
17 formed by an associate company regardless of whether
18 such costs are incurred through the direct or indirect pur-
19 chase of goods and services from such associate company.

20 (c) ASSUMPTION OF LIABILITIES.—Any public utility
21 company that is an associate company of a registered
22 holding company and that is subject to the jurisdiction
23 of a State commission with respect to its retail electric
24 or gas rates shall not issue any security for the purpose
25 of financing the acquisition, ownership, or operation of an

1 associate company engaged in activities described in sub-
2 section (a)(1) without the prior approval of the State com-
3 mission. Any public utility company that is an associate
4 company of a registered holding company and that is sub-
5 ject to the jurisdiction of a State commission with respect
6 to its retail electric or gas rates shall not assume any obli-
7 gation or liability as guarantor, endorser, surety, or other-
8 wise by the public utility in respect of any security of an
9 associate company engaged in activities described in sub-
10 section (a)(1) without the prior approval of the State com-
11 mission.

12 (d) PLEDGING OR MORTGAGING UTILITY ASSETS.—
13 Any public utility company that is an associate company
14 of a registered holding company and that is subject to the
15 jurisdiction of a State commission with respect to its retail
16 electric or gas rates shall not pledge, mortgage, or other-
17 wise use as collateral any utility assets of the public utility
18 or utility assets of any subsidiary company thereof for the
19 benefit of an associate company engaged in activities de-
20 scribed in subsection (a)(1) without the prior approval of
21 the State commission.

22 (e) BOOKS AND RECORDS.—An associate company
23 engaged in activities described in subsection (a)(1) which
24 is an associate company of a registered holding company
25 shall maintain books, records, and accounts separate from

1 the registered holding company which identify all trans-
2 actions with the registered holding company and its other
3 associate companies, and provide access to books, records,
4 and accounts to State commissions and the Federal En-
5 ergy Regulatory Commission under the same terms of ac-
6 cess, disclosure, and procedures as provided in section
7 201(g) of the Federal Power Act.

8 (f) INDEPENDENT AUDIT AUTHORITY FOR STATE
9 COMMISSIONS.—

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

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

15 (B) transacts business, directly or indi-
16 rectly, with a subsidiary company, affiliate, or
17 associate company of that holding company en-
18 gaged in any activity described in subsection

19 (a)(1),
20 may order an independent audit to be performed, no
21 more frequently than on an annual basis, of all mat-
22 ters deemed relevant by the selected auditor that
23 reasonably relate to retail rates: *Provided*, That such
24 matters relate, directly or indirectly, to transactions
25 or transfers between the public utility company sub-

1 ject to its jurisdiction and the subsidiary company,
2 affiliate, or associate company engaged in that activ-
3 ity.

4 (2) SELECTION OF FIRM TO CONDUCT AUDIT.—

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

12 (i) competency, including adequate
13 technical training and professional pro-
14 ficiency in each discipline necessary to
15 carry out the audit, and

16 (ii) independence and objectivity, in-
17 cluding that the firm be free from personal
18 or external impairments to independence,
19 and should assume an independent position
20 with the State commission and auditee,
21 making certain that the audit is based
22 upon an impartial consideration of all per-
23 tinent facts and responsible opinions.

24 (B) The public utility company and the
25 company engaged in activities under subsection

1 (a)(1) shall cooperate fully with all reasonable
2 requests necessary to perform the audit and the
3 public utility company shall bear all costs of
4 having the audit performed.

5 (3) AVAILABILITY OF AUDITOR'S REPORT.—The
6 auditor's report shall be provided to the State com-
7 mission within 6 months after the selection of the
8 auditor, and provided to the public utility company
9 60 days thereafter.

10 (g) REQUIRED NOTICES.—

11 (1) AFFILIATE CONTRACTS.—A State commis-
12 sion may order any public utility company that is an
13 associate company of a registered holding company
14 and that is subject to the jurisdiction of the State
15 commission to provide quarterly reports listing any
16 contracts, leases, transfers, or other transactions
17 with an associate company engaged in activities de-
18 scribed in subsection (a)(1).

19 (2) ACQUISITION OF AN INTEREST IN ASSOCI-
20 ATE COMPANIES.—Within 10 days after the acqui-
21 sition by a registered holding company of an interest
22 in an associate company that will engage in activities
23 described in subsection (a)(1), any public utility
24 company that is an associate company of such com-
25 pany shall notify each State commission having ju-

1 jurisdiction over the retail rates of such public utility
2 company of such acquisition. In the notice an officer
3 on behalf of the public utility company shall attest
4 that, based on then current information, such acqui-
5 sition and related financing will not materially im-
6 pair the ability of such public utility company to
7 meet its public service responsibility, including its
8 ability to raise necessary capital.

9 (h) DEFINITIONS.—Any term used in this section
10 that is defined in the Public Utility Holding Company Act
11 of 1935 (15 U.S.C. 79a et seq.) has the same meaning
12 as it has in that Act. The terms “telecommunications serv-
13 ice” and “information service” shall have the same mean-
14 ings as those terms have in the Communications Act of
15 1934.

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

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

22 **SEC. 206. BROADCAST REFORM.**

23 (a) SPECTRUM REFORM.—

1 (1) ADVANCED TELEVISION SPECTRUM SERV-
2 ICES.—If the Commission by rule permits licensees
3 to provide advanced television services, then—

4 (A) it shall adopt regulations that allow
5 such licensees to make use of the advanced tele-
6 vision spectrum for the transmission of ancil-
7 lary or supplementary services if the licensees
8 provide without charge to the public at least
9 one advanced television program service as pre-
10 scribed by the Commission that is intended for
11 and available to the general public on the ad-
12 vanced television spectrum; and

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

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

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

22 (B) for which the licensee directly or indi-
23 rectly receives compensation from a third party
24 in return for transmitting material furnished by
25 such third party, other than payments to broad-

1 cast stations by third parties for transmission
2 of program material or commercial advertising,
3 the Commission may collect from each such licensee
4 an annual fee to the extent the existing or advanced
5 television spectrum is used for such ancillary or sup-
6 plementary services. In determining the amount of
7 such fees, the Commission shall take into account
8 the portion of the licensee's total existing or ad-
9 vanced television spectrum which is used for such
10 services and the amount of time such services are
11 provided. The amount of such fees to be collected for
12 any such service shall not, in any event, exceed an
13 amount equivalent on an annualized basis to the
14 amount paid by providers of a competing service on
15 spectrum subject to auction under section 309(j) of
16 the Communications Act of 1934 (47 U.S.C. 309(j)).

17 (3) PUBLIC INTEREST REQUIREMENT.—Noth-
18 ing in this section shall be construed as relieving a
19 television broadcasting station from its obligation to
20 serve the public interest, convenience, and necessity.
21 In the Commission's review of any application for
22 renewal of a broadcast license for a television station
23 that provides ancillary or supplementary services,
24 the television licensee shall establish that all of its
25 program services on the existing or advanced tele-

vision spectrum are in the public interest. Any violation of the Commission rules applicable to ancillary or supplementary services shall reflect upon the licensee's qualifications for renewal of its license.

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

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

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

(b) OWNERSHIP REFORM.—

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

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

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

(2) RADIO OWNERSHIP.—The Commission shall modify its rules set forth in 47 CFR 73.3555 by

1 eliminating any provisions limiting the number of
2 AM or FM broadcast stations which may be owned
3 or controlled by one entity either nationally or in a
4 particular market. The Commission may refuse to
5 approve the transfer or issuance of an AM or FM
6 broadcast license to a particular entity if it finds
7 that the entity would thereby obtain an undue con-
8 centration of control or would thereby harm competi-
9 tion. Nothing in this section shall require or prevent
10 the Commission from modifying its rules contained
11 in 47 CFR 73.3555(c) governing the ownership of
12 both a radio and television broadcast stations in the
13 same market.

14 (3) LOCAL MARKETING AGREEMENT.—Nothing
15 in this Act shall be construed to prohibit the con-
16 tinuation or renewal of any television local market-
17 ing agreement that is in effect on the date of enact-
18 ment of this Act and that is in compliance with the
19 Commission’s regulations.

20 (4) STATUTORY RESTRICTIONS.—Section 613
21 (47 U.S.C. 533) is amended by striking subsection
22 (a) and inserting the following:

23 “(a) The Commission shall review its ownership rules
24 biennially as part of its regulatory reform review under
25 section 259.”.

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

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

8 (c) TERM OF LICENSES.—Section 307(c) (47 U.S.C.
9 307(c)) is amended by striking the first four sentences and
10 inserting the following:

11 “No license shall be granted for a term longer than
12 10 years. Upon application, a renewal of such license may
13 be granted from time to time for a term of not to exceed
14 10 years, if the Commission finds that the public interest,
15 convenience, and necessity would be served thereby.”.

16 (d) BROADCAST LICENSE RENEWAL PROCEDURES.—

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

19 “(k)(1)(A) Notwithstanding subsections (c) and (d),
20 if the licensee of a broadcast station submits an applica-
21 tion to the Commission for renewal of such license, the
22 Commission shall grant the application if it finds, after
23 notice and opportunity for comment, with respect to that
24 station during the preceding term of its license, that—

1 “(i) the station has served the public interest,
2 convenience, and necessity;

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

6 “(iii) there have been no other violations by the
7 licensee of this Act or the rules and regulations of
8 the Commission which, taken together, would con-
9 stitute a pattern of abuse.

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

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

21 “(A) issue an order denying the renewal appli-
22 cation filed by such licensee under section 308; and

23 “(B) only thereafter accept and consider such
24 applications for a construction permit as may be

1 filed under section 308 specifying the channel or
2 broadcasting facilities of the former licensee.

3 “(3) In making the determinations specified in para-
4 graphs (1) or (2)(A), the Commission shall not consider
5 whether the public interest, convenience, and necessity
6 might be served by the grant of a license to a person other
7 than the renewal applicant.”.

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

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

14 (4) This section shall operate only if the Com-
15 mission shall amend its “Application for renewal of
16 License for AM, FM, TV, Translator or LPTV Sta-
17 tion” (FCC Form 303-S) to require that, for com-
18 mercial TV applicants only, the applicant attach as
19 an exhibit to the application a summary of written
20 comments and suggestions received from the public
21 and maintained by the licensee in accordance with
22 section 73.1202 of title 47, Code of Federal Regula-
23 tions, that comment on the applicant’s program-
24 ming, if any, characterized by the commentor as
25 constituting violent programming.

1 **Subtitle B—Termination of Modification of Final**
2 **Judgment**

3 **SEC. 221. REMOVAL OF LONG DISTANCE RESTRICTIONS.**

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

7 **“SEC. 255. INTEREXCHANGE TELECOMMUNICATIONS SERV-**
8 **ICES.**

9 “(a) IN GENERAL.—Notwithstanding any restriction
10 or obligation imposed before the date of enactment of the
11 Telecommunications Act of 1995 under section II(D) of
12 the Modification of Final Judgment, a Bell operating com-
13 pany, or any subsidiary or affiliate of a Bell operating
14 company, that meets the requirements of this section may
15 provide—

16 “(1) interLATA telecommunications services
17 originating in any region in which it is the dominant
18 provider of wireline telephone exchange service or ex-
19 change access service after the Commission deter-
20 mines that it has fully implemented the competitive
21 checklist found in subsection (b)(2) in the area in
22 which it seeks to provide interLATA telecommuni-
23 cations services, in accordance with the provisions of
24 subsection (c);

25 “(2) interLATA telecommunications services
26 originating in any area where that company is not

1 the dominant provider of wireline telephone ex-
2 change service or exchange access service in accord-
3 ance with the provisions of subsection (d); and

4 “(3) interLATA services that are incidental
5 services in accordance with the provisions of sub-
6 section (e).

7 “(b) SPECIFIC INTERLATA INTERCONNECTION RE-
8 QUIREMENTS.—

9 “(1) IN GENERAL.—A Bell operating company
10 may provide interLATA services in accordance with
11 this section only if that company has reached an
12 interconnection agreement under section 251 and
13 that agreement provides, at a minimum, for inter-
14 connection that meets the competitive checklist re-
15 quirements of paragraph (2).

16 “(2) COMPETITIVE CHECKLIST.—Interconnec-
17 tion provided by a Bell operating company to other
18 telecommunications carriers under section 251 shall
19 include:

20 “(A) Nondiscriminatory access on an
21 unbundled basis to the network functions and
22 services of the Bell operating company’s tele-
23 communications network that is at least equal
24 in type, quality, and price to the access the Bell

1 operating company affords to itself or any other
2 entity.

3 “(B) The capability to exchange tele-
4 communications between customers of the Bell
5 operating company and the telecommunications
6 carrier seeking interconnection.

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

12 “(D) Local loop transmission from the
13 central office to the customer’s premises,
14 unbundled from local switching or other serv-
15 ices.

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

19 “(F) Local switching unbundled from
20 transport, local loop transmission, or other serv-
21 ices.

22 “(G) Nondiscriminatory access to—

23 “(i) 911 and E911 services;

1 “(ii) directory assistance services to
2 allow the other carrier’s customers to ob-
3 tain telephone numbers; and

4 “(iii) operator call completion services.

5 “(H) White pages directory listings for
6 customers of the other carrier’s telephone ex-
7 change service.

8 “(I) Until the date by which neutral tele-
9 phone number administration guidelines, plan,
10 or rules are established, nondiscriminatory ac-
11 cess to telephone numbers for assignment to the
12 other carrier’s telephone exchange service cus-
13 tomers. After that date, compliance with such
14 guidelines, plan, or rules.

15 “(J) Nondiscriminatory access to
16 databases and associated signaling, including
17 signaling links, signaling service control points,
18 and signaling service transfer points, necessary
19 for call routing and completion.

20 “(K) Until the date by which the Commis-
21 sion determines that final telecommunications
22 number portability is technically feasible and
23 must be made available, interim telecommuni-
24 cations number portability through remote call
25 forwarding, direct inward dialing trunks, or

1 other comparable arrangements, with as little
2 impairment of functioning, quality, reliability,
3 and convenience as possible. After that date,
4 full compliance with final telecommunications
5 number portability.

6 “(L) Nondiscriminatory access to whatever
7 services or information may be necessary to
8 allow the requesting carrier to implement local
9 dialing parity in a manner that permits con-
10 sumers to be able to dial the same number of
11 digits when using any telecommunications car-
12 rier providing telephone exchange service or ex-
13 change access service.

14 “(M) Reciprocal compensation arrange-
15 ments on a nondiscriminatory basis for the
16 origination and termination of telecommuni-
17 cations.

18 “(N) Telecommunications services and net-
19 work functions provided on an unbundled basis
20 without any conditions or restrictions on the re-
21 sale or sharing of those services or functions,
22 including both origination and termination of
23 telecommunications services, other than reason-
24 able conditions required by the Commission or
25 a State. For purposes of this subparagraph, it

1 is not an unreasonable condition for the Com-
2 mission or a State to limit the resale—

3 “(i) of services included in the defini-
4 tion of universal service to a telecommuni-
5 cations carrier who intends to resell that
6 service to a category of customers different
7 from the category of customers being of-
8 fered that universal service by such carrier
9 if the Commission or State orders a carrier
10 to provide the same service to different
11 categories of customers at different prices
12 necessary to promote universal service; or

13 “(ii) of subsidized universal service in
14 a manner that allows companies to charge
15 another carrier rates which reflect the ac-
16 tual cost of providing those services to that
17 carrier, exclusive of any universal service
18 support received for providing such serv-
19 ices in accordance with section 214(d)(5).

20 “(3) JOINT MARKETING OF LOCAL AND LONG
21 DISTANCE SERVICES.—Until a Bell operating com-
22 pany is authorized to provide interLATA services in
23 a telephone exchange area where that company is
24 the dominant provider of wireline telephone ex-
25 change service or exchange access service, or until

1 36 months have passed since the enactment of the
2 Telecommunications Act of 1995, whichever is ear-
3 lier, a telecommunications carrier that serves greater
4 than 5 percent of the Nation's presubscribed access
5 lines may not jointly market in such telephone ex-
6 change area telephone exchange service purchased
7 from such company with interLATA services offered
8 by that telecommunications carrier.

9 “(4) COMMISSION MAY NOT EXPAND COMPETI-
10 TIVE CHECKLIST.—The Commission may not, by
11 rule or otherwise, limit or extend the terms used in
12 the competitive checklist.

13 “(c) IN-REGION SERVICES.—

14 “(1) APPLICATION.—Upon the enactment of
15 the Telecommunications Act of 1995, a Bell operat-
16 ing company or its affiliate may apply to the Com-
17 mission for authorization notwithstanding the Modi-
18 fication of Final Judgment to provide interLATA
19 telecommunications service originating in any area
20 where such Bell operating company is the dominant
21 provider of wireline telephone exchange service or ex-
22 change access service. The application shall describe
23 with particularity the nature and scope of the activ-
24 ity and of each product market or service market,

1 and each geographic market for which authorization
2 is sought.

3 “(2) DETERMINATION BY COMMISSION.—

4 “(A) DETERMINATION.—Not later than 90
5 days after receiving an application under para-
6 graph (1), the Commission shall issue a written
7 determination, on the record after a hearing
8 and opportunity for comment, granting or deny-
9 ing the application in whole or in part. Before
10 making any determination under this subpara-
11 graph, the Commission shall consult with the
12 Attorney General regarding the application. In
13 consulting with the Commission under this sub-
14 paragraph, the Attorney General may apply any
15 appropriate standard.

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

20 “(i) the petitioning Bell operating
21 company has fully implemented the com-
22 petitive checklist found in subsection
23 (b)(2); and

1 “(ii) the requested authority will be
2 carried out in accordance with the require-
3 ments of section 252,
4 and if the Commission determines that the re-
5 quested authorization is consistent with the
6 public interest, convenience, and necessity. If
7 the Commission does not approve an application
8 under this subparagraph, it shall state the basis
9 for its denial of the application.

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

14 “(4) JUDICIAL REVIEW.—

15 “(A) COMMENCEMENT OF ACTION.—Not
16 later than 45 days after a determination by the
17 Commission is published under paragraph (3),
18 the Bell operating company or its subsidiary or
19 affiliate that applied to the Commission under
20 paragraph (1), or any person who would be
21 threatened with loss or damage as a result of
22 the determination regarding such company’s en-
23 gaging in the activity described in its applica-
24 tion, may commence an action in any United
25 States Court of Appeals against the Commis-

1 sion for judicial review of the determination re-
2 garding the application.

3 “(B) JUDGMENT.—

4 “(i) The Court shall enter a judgment
5 after reviewing the determination in ac-
6 cordance with section 706 of title 5 of the
7 United State Code.

8 “(ii) A judgment—

9 “(I) affirming any part of the de-
10 termination that approves granting all
11 or part of the requested authorization,
12 or

13 “(II) reversing any part of the
14 determination that denies all or part
15 of the requested authorization,
16 shall describe with particularity the nature
17 and scope of the activity, and of each prod-
18 uct market or service market, and each ge-
19 ographic market, to which the affirmance
20 or reversal applies.

21 “(5) REQUIREMENTS RELATING TO SEPARATE
22 AFFILIATE; SAFEGUARDS; AND INTRALATA TOLL DI-
23 ALING PARITY.—

24 “(A) SEPARATE AFFILIATE; SAFE-
25 GUARDS.—Other than interLATA services au-

1 thorized by an order entered by the United
2 States District Court for the District of Colum-
3 bia pursuant to the Modification of Final Judg-
4 ment before the date of enactment of the Tele-
5 communications Act of 1995, a Bell operating
6 company, or any affiliate of such a company,
7 providing interLATA services authorized under
8 this subsection may provide such interLATA
9 services in that market only in accordance with
10 the requirements of section 252.

11 “(B) INTRALATA TOLL DIALING PARITY.—

12 “(i) A Bell operating company grant-
13 ed authority to provide interLATA services
14 under this subsection shall provide
15 intraLATA toll dialing parity throughout
16 that market coincident with its exercise of
17 that authority. If the Commission finds
18 that such a Bell operating company has
19 provided interLATA service authorized
20 under this clause before its implementation
21 of intraLATA toll dialing parity through-
22 out that market, or fails to maintain
23 intraLATA toll dialing parity throughout
24 that market, the Commission, except in
25 cases of inadvertent interruptions or other

1 events beyond the control of the Bell oper-
2 ating company, shall suspend the authority
3 to provide interLATA service for that mar-
4 ket until the Commission determines that
5 intraLATA toll dialing parity is imple-
6 mented or reinstated.

7 “(ii) Except for single-LATA States
8 and States which have issued an order by
9 June 1, 1995 requiring a Bell operating
10 company to implement toll dialing parity, a
11 State may not require a Bell operating
12 company to implement toll dialing parity in
13 an intraLATA area before a Bell operating
14 company has been granted authority under
15 this subsection to provide interLATA serv-
16 ices in that area or before three years after
17 the date of enactment of the Telecommuni-
18 cations Act of 1995, whichever is earlier.
19 Nothing in this clause precludes a State
20 from issuing an order requiring toll dialing
21 parity in an intraLATA area prior to ei-
22 ther such date so long as such order does
23 not take effect until after the earlier of ei-
24 ther such dates.

1 “(iii) In any State in which
2 intraLATA toll dialing parity has been im-
3 plemented prior to the earlier date speci-
4 fied in clause (ii), no telecommunications
5 carrier that serves greater than five per-
6 cent of the Nation’s presubscribed access
7 lines may jointly market interLATA tele-
8 communications services and intraLATA
9 toll telecommunications services in a tele-
10 phone exchange area in such State until a
11 Bell operating company is authorized
12 under this subsection to provide
13 interLATA services in such telephone ex-
14 change area or until three years after the
15 date of enactment of the Telecommuni-
16 cations Act of 1995, whichever is earlier.

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

24 “(e) INCIDENTAL SERVICES.—

1 “(1) IN GENERAL.—Effective on the date of en-
2 actment of the Telecommunications Act of 1995, a
3 Bell operating company or its affiliate may provide
4 interLATA services that are incidental to—

5 “(A)(i) providing audio programming,
6 video programming, or other programming serv-
7 ices to subscribers of such company,

8 “(ii) providing the capability for inter-
9 action by such subscribers to select or respond
10 to such audio programming, video program-
11 ming, or other programming services, to order,
12 or control transmission of the programming,
13 polling or balloting, and ordering other goods or
14 services,

15 “(iii) providing to distributors audio pro-
16 gramming or video programming that such
17 company owns, controls, or is licensed by the
18 copyright owner of such programming, or by an
19 assignee of such owner, to distribute, or

20 “(iv) providing alarm monitoring services,

21 “(B) providing—

22 “(i) a telecommunications service,
23 using the transmission facilities of a cable
24 system that is an affiliate of such com-
25 pany, between LATAs within a cable sys-

1 tem franchise area in which such company
2 is not, on the date of enactment of the
3 Telecommunications Act of 1995, a pro-
4 vider of wireline telephone exchange serv-
5 ice, or

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

10 “(C) providing a service that permits a
11 customer that is located in one LATA to re-
12 trieve stored information from, or file informa-
13 tion for storage in, information storage facilities
14 of such company that are located in another
15 LATA area, so long as the customer acts af-
16 firmatively to initiate the storage or retrieval of
17 information, except that—

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

22 “(ii) such service shall not include
23 voice, data, or facsimile distribution serv-
24 ices in which the Bell operating company
25 or affiliate forwards customer-supplied in-

1 formation to customer- or carrier-selected
2 recipients,

3 “(iii) such service shall not include
4 any service in which the Bell operating
5 company or affiliate searches for and con-
6 nects with the intended recipient of infor-
7 mation, or any service in which the Bell
8 operating company or affiliate automati-
9 cally forwards stored voicemail or other in-
10 formation to the intended recipient, and

11 “(iv) customers of such service shall
12 not be billed a separate charge for the
13 interLATA telecommunications furnished
14 in conjunction with the provision of such
15 service,

16 “(D) providing signaling information used
17 in connection with the provision of telephone ex-
18 change service or exchange access service to an-
19 other local exchange carrier; or

20 “(E) providing network control signaling
21 information to, and receiving such signaling in-
22 formation from, interexchange carriers at any
23 location within the area in which such company
24 provides telephone exchange service or exchange
25 access service.

1 “(2) LIMITATIONS.—The provisions of para-
2 graph (1) are intended to be narrowly construed.
3 The transmission facilities used by a Bell operating
4 company or affiliate thereof to provide interLATA
5 telecommunications under paragraph (1)(C) and
6 subsection (f) shall be leased by that company from
7 unaffiliated entities on terms and conditions (includ-
8 ing price) no more favorable than those available to
9 the competitors of that company until that Bell op-
10 erating company receives authority to provide
11 interLATA services under subsection (c). The
12 interLATA services provided under paragraph
13 (1)(A) are limited to those interLATA transmissions
14 incidental to the provision by a Bell operating com-
15 pany or its affiliate of video, audio, and other pro-
16 gramming services that the company or its affiliate
17 is engaged in providing to the public. A Bell operat-
18 ing company may not provide telecommunications
19 services not described in paragraph (1) without re-
20 ceiving the approvals required by subsection (c). The
21 provision of services authorized under this sub-
22 section by a Bell operating company or its affiliate
23 shall not adversely affect telephone exchange rate-
24 payers or competition in any telecommunications
25 market.

1 “(f) COMMERCIAL MOBILE SERVICE.—A Bell operat-
2 ing company may provide interLATA commercial mobile
3 service except where such service is a replacement for land
4 line telephone exchange service for a substantial portion
5 of the land line telephone exchange service in a State in
6 accordance with section 322(c) and with the regulations
7 prescribed by the Commission.

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

9 “(1) AUDIO PROGRAMMING SERVICES.—The
10 term ‘audio programming services’ means program-
11 ming provided by, or generally considered to be com-
12 parable to programming provided by, a radio broad-
13 cast station.

14 “(2) VIDEO PROGRAMMING SERVICES; OTHER
15 PROGRAMMING SERVICES.—The terms ‘video pro-
16 gramming service’ and ‘other programming services’
17 have the same meanings as such terms have under
18 section 602 of this Act.

19 “(h) CERTAIN SERVICE APPLICATIONS TREATED AS
20 IN-REGION SERVICE APPLICATIONS.—For purposes of
21 this section, a Bell operating company application to pro-
22 vide 800 service, private line service, or their equivalents
23 that—

24 “(1) terminate in an area where the Bell oper-
25 ating company is the dominant provider of wireline

1 telephone exchange service or exchange access serv-
2 ice, and

3 “(2) allow the called party to determine the
4 interLATA carrier,
5 shall be considered an in-region service subject to the re-
6 quirements of subsection (c) and not of subsection (d).”.

7 (b) LONG DISTANCE ACCESS FOR COMMERCIAL MO-
8 BILE SERVICES.—

9 (1) IN GENERAL.—Notwithstanding any re-
10 striction or obligation imposed pursuant to the
11 Modification of final Judgment or other consent de-
12 cree or proposed consent decree prior to the date of
13 enactment of this Act, a person engaged in the pro-
14 vision of commercial mobile services (as defined in
15 section 332(d)(1) of the Communications Act of
16 1934), insofar as such person is so engaged, shall
17 not be required by court order or otherwise to pro-
18 vide equal access to interexchange telecommuni-
19 cations carriers, except as provided by this section.
20 Such a person shall ensure that its subscribers can
21 obtain unblocked access to the provider of
22 interexchange services of the subscriber’s choice
23 through the use of an interexchange carrier identi-
24 fication code assigned to such provider, except that
25 the requirements for unblocking shall not apply to

1 mobile satellite services unless the Commission finds
2 it to be in the public interest.

3 (2) EQUAL ACCESS REQUIREMENT CONDI-
4 TIONS.—The Commission may only require a person
5 engaged in the provision of commercial mobile serv-
6 ices to provide equal access to interexchange carriers
7 if—

8 (A) such person, insofar as such person is
9 so engaged, is subject to the interconnection ob-
10 ligations of section 251(a) of the Communica-
11 tions Act of 1934, and

12 (B) the Commission finds that such re-
13 quirement is in the public interest.

14 **SEC. 222. REMOVAL OF MANUFACTURING RESTRICTIONS.**

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

18 **“SEC. 256. REGULATION OF MANUFACTURING BY BELL OP-
19 ERATING COMPANIES.**

20 **“(a) AUTHORIZATION.—**

21 **“(1) IN GENERAL.—**Notwithstanding any re-
22 striction or obligation imposed before the date of en-
23 actment of the Telecommunications Act of 1995
24 pursuant to the Modification of Final Judgment on
25 the lines of business in which a Bell operating com-

1 pany may engage, if the Commission authorizes a
2 Bell operating company to provide interLATA serv-
3 ices under section 255, then that company may be
4 authorized by the Commission to manufacture and
5 provide telecommunications equipment, and to man-
6 ufacture customer premises equipment, at any time
7 after that determination is made, subject to the re-
8 quirements of this section and the regulations pre-
9 scribed, except that neither a Bell operating com-
10 pany nor any of its affiliates may engage in such
11 manufacturing in conjunction with a Bell operating
12 company not so affiliated or any of its affiliates.

13 “(2) CERTAIN RESEARCH AND DESIGN AR-
14 RANGEMENTS; ROYALTY AGREEMENTS.—Upon adop-
15 tion of rules by the Commission under section 252,
16 a Bell operating company may—

17 “(A) engage in research and design activi-
18 ties related to manufacturing, and

19 “(B) enter into royalty agreements with
20 manufacturers of telecommunications equip-
21 ment.

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

1 “(c) PROTECTION OF SMALL TELEPHONE COMPANY
2 INTERESTS.—

3 “(1) EQUIPMENT TO BE MADE AVAILABLE TO
4 OTHERS.—A manufacturing affiliate of a Bell oper-
5 ating company shall make available, without dis-
6 crimination or self-preference as to price, delivery,
7 terms, or conditions, to all local exchange carriers,
8 for use with the public telecommunications network,
9 any telecommunications equipment, including soft-
10 ware integral to such telecommunications equipment,
11 including upgrades, manufactured by such affiliate if
12 each such purchasing carrier—

13 “(A) does not manufacture telecommuni-
14 cations equipment or have an affiliate which
15 manufactures telecommunications equipment; or

16 “(B) agrees to make available, to the Bell
17 operating company that is the parent of the
18 manufacturing affiliate or any of the local ex-
19 change carrier affiliates of such Bell company,
20 any telecommunications equipment, including
21 software integral to such telecommunications
22 equipment, including upgrades, manufactured
23 for use with the public telecommunications net-
24 work by such purchasing carrier or by any en-

1 tity or organization with which such purchasing
2 carrier is affiliated.

3 “(2) NON-DISCRIMINATION STANDARDS.—

4 “(A) A Bell operating company and any
5 entity acting on its behalf shall make procure-
6 ment decisions and award all supply contracts
7 for equipment, services, and software on the
8 basis of open, competitive bidding, and an ob-
9 jective assessment of price, quality, delivery,
10 and other commercial factors.

11 “(B) A Bell operating company and any
12 entity it owns or otherwise controls, or which is
13 acting on its behalf or on behalf of its affiliate,
14 shall permit any person to participate fully on
15 a non-discriminatory basis in the process of es-
16 tablishing standards and certifying equipment
17 used in or interconnected to the public tele-
18 communications network.

19 “(C) A Bell operating company shall, con-
20 sistent with the antitrust laws, engage in joint
21 network planning and design with local ex-
22 change carriers operating in the same area of
23 interest. No participant in such planning shall
24 be allowed to delay the introduction of new
25 technology or the deployment of facilities to

1 provide telecommunications services, and agree-
2 ment with such other carriers shall not be re-
3 quired as a prerequisite for such introduction or
4 deployment. A Bell operating company shall
5 provide, to other local exchange carriers operat-
6 ing in the same area of interest, timely informa-
7 tion on the planned deployment of telecommuni-
8 cations equipment, including software integral
9 to such telecommunications equipment and up-
10 grades of that software.

11 “(D) A manufacturing affiliate of a Bell
12 operating company may not restrict sales to any
13 local exchange carrier of telecommunications
14 equipment, including software integral to the
15 operation of such equipment and related up-
16 grades.

17 “(E) A Bell operating company and any
18 entity it owns or otherwise controls shall protect
19 the proprietary information submitted with con-
20 tract bids and in the standards and certification
21 processes from release not specifically author-
22 ized by the owner of such information.

23 “(d) COLLABORATION WITH OTHER MANUFACTUR-
24 ERS.—A Bell operating company and its affiliates may en-
25 gage in close collaboration with any manufacturer of cus-

1 tomer premises equipment or telecommunications equip-
2 ment not affiliated with a Bell operating company during
3 the design and development of hardware, software, or
4 combinations thereof relating to such equipment.

5 “(e) INFORMATION ON PROTOCOLS AND TECHNICAL
6 REQUIREMENTS.—The Commission shall prescribe regula-
7 tions to require that each Bell operating company shall
8 maintain and file with the Commission full and complete
9 information with respect to the protocols and technical re-
10 quirements for connection with and use of its telephone
11 exchange service facilities. Such regulations shall require
12 each such Bell company to report promptly to the Com-
13 mission any material changes or planned changes to such
14 protocols and requirements, and the schedule for imple-
15 mentation of such changes or planned changes.

16 “(f) ADDITIONAL RULES AND REGULATIONS.—The
17 Commission may prescribe such additional rules and regu-
18 lations as the Commission determines are necessary to
19 carry out the provisions of this section, and otherwise to
20 prevent discrimination and cross-subsidization in a Bell
21 operating company’s dealings with its affiliate and with
22 third parties.

23 “(g) ADMINISTRATION AND ENFORCEMENT.—

24 “(1) COMMISSION AUTHORITY.—For the pur-
25 poses of administering and enforcing the provisions

1 of this section and the regulations prescribed under
2 this section, the Commission shall have the same au-
3 thority, power, and functions with respect to any
4 Bell operating company as the Commission has in
5 administering and enforcing the provisions of this
6 title with respect to any common carrier subject to
7 this Act.

8 “(2) CIVIL ACTIONS BY INJURED PARTIES.—

9 Any party injured by an act or omission of a Bell
10 operating company or its manufacturing affiliate
11 which violates the requirements of paragraph (1) or
12 (2) of subsection (c), or the Commission’s regula-
13 tions implementing such paragraphs, may initiate an
14 action in a district court of the United States to re-
15 cover the full amount of damages sustained in con-
16 sequence of any such violation and obtain such or-
17 ders from the court as are necessary to terminate
18 existing violations and to prevent future violations;
19 or such party may seek relief from the Commission
20 pursuant to sections 206 through 209.

21 “(h) APPLICATION TO BELL COMMUNICATIONS RE-
22 SEARCH.—Nothing in this section—

23 “(1) provides any authority for Bell Commu-
24 nications Research, or any successor entity, to man-

1 manufacture or provide telecommunications equipment
2 or to manufacture customer premises equipment; or

3 “(2) prohibits Bell Communications Research,
4 or any successor entity, from engaging in any activ-
5 ity in which it is lawfully engaged on the date of en-
6 actment of the Telecommunications Act of 1995, in-
7 cluding providing a centralized organization for the
8 provision of engineering, administrative, and other
9 services (including serving as a single point of con-
10 tact for coordination of the Bell operating companies
11 to meet national security and emergency prepared-
12 ness requirements).

13 “(i) DEFINITIONS.—As used in this section—

14 “(1) The term ‘customer premises equipment’
15 means equipment employed on the premises of a
16 person (other than a carrier) to originate, route, or
17 terminate telecommunications.

18 “(2) The term ‘manufacturing’ has the same
19 meaning as such term has in the Modification of
20 Final Judgment.

21 “(3) The term ‘telecommunications equipment’
22 means equipment, other than customer premises
23 equipment, used by a carrier to provide tele-
24 communications services.’’.

1 (b) EFFECT ON PRE-EXISTING MANUFACTURING AU-
2 THORITY.—Nothing in this section, or in section 256 of
3 the Communications Act of 1934 as added by this section,
4 prohibits any Bell operating company from engaging, di-
5 rectly or through any affiliate, in any manufacturing activ-
6 ity in which any Bell operating company or affiliate was
7 authorized to engage on the date of enactment of this Act.

8 **SEC. 223. EXISTING ACTIVITIES.**

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

17 **SEC. 224. ENFORCEMENT.**

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

21 **“SEC. 257. ENFORCEMENT.**

22 “(a) IN GENERAL.—In addition to any penalty, fine,
23 or other enforcement remedy under this Act, the failure
24 by a telecommunications carrier to implement the require-
25 ments of section 251 or 255, including a failure to comply

1 with the terms of an interconnection agreement approved
2 under section 251, is punishable by a civil penalty of not
3 to exceed \$1,000,000 per offense. Each day of a continu-
4 ing offense shall be treated as a separate violation for pur-
5 poses of levying any penalty under this subsection.

6 “(b) NONCOMPLIANCE WITH INTERCONNECTION OR
7 SEPARATE SUBSIDIARY REQUIREMENTS.—

8 “(1) A Bell operating company that repeatedly,
9 knowingly, and without reasonable cause fails to im-
10 plement an interconnection agreement approved
11 under section 251, to comply with the requirements
12 of such agreement after implementing them, or to
13 comply with the separate affiliate requirements of
14 this part may be fined up to \$500,000,000 by a dis-
15 trict court of the United States of competent juris-
16 diction.

17 “(2) A Bell operating company that repeatedly,
18 knowingly, and without reasonable cause fails to
19 meet its obligations under section 255 for the provi-
20 sion of interLATA service may have its authority to
21 provide any service suspended if its right to provide
22 that service is conditioned upon its meeting those
23 obligations.

24 “(c) ENFORCEMENT BY PRIVATE RIGHT OF AC-
25 TION.—

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

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

16 “(d) PAYMENT OF CIVIL PENALTIES, DAMAGES, OR
17 INTEREST.—No civil penalties, damages, or interest as-
18 sessed against any local exchange carrier as a result of
19 a violation referred to in this section will be charged di-
20 rectly or indirectly to that company’s rate payers.”.

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

23 (1) by striking “or” after the semicolon at the
24 end of subparagraph (A);

1 (2) by striking the period at the end of sub-
2 paragraph (B) and inserting a semicolon and “or”;
3 and

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

5 “(C) conducted by a commercial organiza-
6 tion and is contained in a publication published
7 in a State in which such activities or the publi-
8 cation of such activities are authorized or not
9 otherwise prohibited, or broadcast by a radio or
10 television station licensed in a State in which
11 such activities or the broadcast of such activi-
12 ties are authorized or not otherwise prohib-
13 ited.”.

14 **SEC. 225. ALARM MONITORING SERVICES.**

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

18 **“SEC. 258. REGULATION OF ENTRY INTO ALARM MONITOR-**
19 **ING SERVICES.**

20 “(a) IN GENERAL.—Except as provided in this sec-
21 tion, a Bell operating company, or any affiliate of that
22 company, may not provide alarm monitoring services for
23 the protection of life, safety, or property. A Bell operating
24 company may transport alarm monitoring service signals
25 on a common carrier basis only.

1 “(b) AUTHORITY TO PROVIDE ALARM MONITORING
2 SERVICES.—Beginning 4 years after the date of enact-
3 ment of the Telecommunications Act of 1995, a Bell oper-
4 ating company may provide alarm monitoring services for
5 the protection of life, safety, or property if it has been
6 authorized to provide interLATA services under section
7 255 unless the Commission finds that the provision of
8 alarm monitoring services by such company is not in the
9 public interest. The Commission may not find that provi-
10 sion of alarm monitoring services by a Bell operating com-
11 pany is in the public interest until it finds that it has the
12 capability effectively to enforce any requirements, limita-
13 tions, or conditions that may be placed upon a Bell operat-
14 ing company in the provision of alarm monitoring services,
15 including the regulations prescribed under subsection (c).

16 “(c) REGULATIONS REQUIRED.—

17 “(1) Not later than 1 year after the date of en-
18 actment of the Telecommunications Act of 1995, the
19 Commission shall prescribe regulations—

20 “(A) to establish such requirements, limi-
21 tations, or conditions as are—

22 “(i) necessary and appropriate in the
23 public interest with respect to the provision
24 of alarm monitoring services by Bell oper-
25 ating companies and their affiliates, and

1 “(ii) effective at such time as a Bell
2 operating company or any of its subsidi-
3 aries or affiliates is authorized to provide
4 alarm monitoring services; and

5 “(B) to establish procedures for the receipt
6 and review of complaints concerning violations
7 by such companies of such regulations, or of
8 any other provision of this Act or the regula-
9 tions thereunder, that result in material finan-
10 cial harm to a provider of alarm monitoring
11 services.

12 “(2) A Bell operating company, its affiliates,
13 and any local exchange carrier are prohibited from
14 recording or using in any fashion the occurrence or
15 contents of calls received by providers of alarm mon-
16 itoring services for the purposes of marketing such
17 services on behalf of the Bell operating company,
18 any of its affiliates, the local exchange carrier, or
19 any other entity. Any regulations necessary to en-
20 force this paragraph shall be issued initially within
21 6 months after the date of enactment of the Tele-
22 communications Act of 1995.

23 “(d) EXPEDITED CONSIDERATION OF COM-
24 PLAINTS.—The procedures established under sub-
25 section (c) shall ensure that the Commission will

1 make a final determination with respect to any com-
2 plaint described in such subsection within 120 days
3 after receipt of the complaint. If the complaint con-
4 tains an appropriate showing that the alleged viola-
5 tion occurred, as determined by the Commission in
6 accordance with such regulations, the Commission
7 shall, within 60 days after receipt of the complaint,
8 issue a cease and desist order to prevent the Bell op-
9 erating company and its subsidiaries and affiliates
10 from continuing to engage in such violation pending
11 such final determination.

12 “(e) REMEDIES.—The Commission may use any rem-
13 edy available under title V of this Act to terminate and
14 to impose sanctions on violations described in subsection
15 (c). Such remedies may include, if the Commission deter-
16 mines that such violation was willful or repeated, ordering
17 the Bell operating company or its affiliate to cease offering
18 alarm monitoring services.

19 “(f) SAVINGS PROVISION.—Subsections (a) and (b)
20 do not prohibit or limit the provision of alarm monitoring
21 services by a Bell operating company or an affiliate that
22 was engaged in providing those services as of June 1,
23 1995, to the extent that such company—

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

4 “(2) does not acquire, directly or indirectly, an
5 equity interest in another entity engaged in provid-
6 ing alarm monitoring services.

7 “(g) ALARM MONITORING SERVICES DEFINED.—As
8 used in this section, the term ‘alarm monitoring services’
9 means services that detect threats to life, safety, or prop-
10 erty by burglary, fire, vandalism, bodily injury, or other
11 emergency through the use of devices that transmit signals
12 to a central point in a customer’s residence, place of busi-
13 ness, or other fixed premises which—

14 “(1) retransmits such signals to a remote mon-
15 itoring center by means of telecommunications facili-
16 ties of the Bell operating company and any subsidi-
17 ary or affiliate; and

18 “(2) serves to alert persons at the monitoring
19 center of the need to inform customers, other per-
20 sons, or police, fire, rescue, or other security or pub-
21 lic safety personnel of the threat at such premises.
22 Such term does not include medical monitoring devices at-
23 tached to individuals for the automatic surveillance of on-
24 going medical conditions.”.

1 **SEC. 226. NONAPPLICABILITY OF MODIFICATION OF FINAL**
2 **JUDGMENT.**

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

10 **TITLE III—AN END TO REGULATION**

11 **SEC. 301. TRANSITION TO COMPETITIVE PRICING.**

12 (a) **PRICING FLEXIBILITY.**—

13 (1) **IN GENERAL.**—The Commission and the
14 States shall provide to telecommunications carriers
15 price flexibility in the rates charged consumers for
16 the provision of telecommunications services within
17 one year after the date of enactment of this Act.
18 The Commission or a State may establish the rate
19 consumers may be charged for services included in
20 the definition of universal service, as well as the con-
21 tribution, if any, that all carriers must contribute for
22 the preservation and advancement of universal serv-
23 ice. Pricing flexibility implemented pursuant to this
24 section for the purpose of allowing a regulated tele-
25 communications provider to respond to competition
26 by repricing services subject to competition shall not

1 have the effect of using noncompetitive services to
2 subsidize competitive services.

3 (2) CONSUMER PROTECTION.—The Commission
4 and the States shall ensure that rates for telephone
5 service remain just, reasonable, and affordable as
6 competition develops for telephone exchange service
7 and telephone exchange access service. Until suffi-
8 cient competition exists in a market, the Commission
9 or a State may establish the rate that a carrier may
10 charge for any such service if such rate is necessary
11 for the protection of consumers. Any such rate shall
12 cease to be regulated whenever the Commission or a
13 State determines that it is no longer necessary for
14 the protection of consumers. The Commission shall
15 establish cost allocation guidelines for facilities
16 owned by an essential telecommunications carrier
17 that are used for the provision of both services in-
18 cluded in the definition of universal service and
19 video programming sold by such carrier directly to
20 subscribers, if such allocation is necessary for the
21 protection of consumers.

22 (3) RATE-OF-RETURN REGULATION ELIMI-
23 NATED.—

24 (A) In instituting the price flexibility re-
25 quired under paragraph (1) the Commission

1 and the States shall establish alternative forms
2 of regulation for Tier 1 telecommunications car-
3 riers that do not include regulation of the rate
4 of return earned by such carrier as part of a
5 plan that provides for any or all of the follow-
6 ing—

7 (i) the advancement of competition in
8 the provision of telecommunications serv-
9 ices;

10 (ii) improvements in productivity;

11 (iii) improvements in service quality;

12 (iv) measures to ensure customers of
13 non-competitive services do not bear the
14 risks associated with the provision of com-
15 petitive services;

16 (v) enhanced telecommunications serv-
17 ices for educational institutions; or

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

21 (B) The Commission or a State, as appro-
22 priate, may apply such alternative forms of reg-
23 ulation to any other telecommunications carrier
24 that is subject to rate of return regulation
25 under this Act.

1 (C) Any such alternative form of regula-
2 tion—

3 (i) shall be consistent with the objec-
4 tives of preserving and advancing universal
5 service, guaranteeing high quality service,
6 ensuring just, reasonable, and affordable
7 rates, and encouraging economic efficiency;
8 and

9 (ii) shall meet such other criteria as
10 the Commission or a State, as appropriate,
11 finds to be consistent with the public inter-
12 est, convenience, and necessity.

13 (D) Nothing in this section shall prohibit
14 the Commission, for interstate services, and the
15 States, for intrastate services, from considering
16 the profitability of telecommunications carriers
17 when using alternative forms of regulation
18 other than rate of return regulation (including
19 price regulation and incentive regulation) to en-
20 sure that regulated rates are just and reason-
21 able.

22 (b) TRANSITION PLAN REQUIRED.—If the Commis-
23 sion or a State adopts rules for the distribution of support
24 payments under section 253 of the Communications Act
25 of 1934, as amended by this Act, such rules shall include

1 a transition plan to allow essential telecommunications
2 carriers to provide for an orderly transition from the uni-
3 versal service support mechanisms in existence upon the
4 date of enactment of this Act and the support mechanisms
5 established by the Commission and the States under this
6 Act or the Communications Act of 1934 as amended by
7 this Act. Any such transition plan shall—

8 (1) provide a phase-in of the price flexibility re-
9 quirements under subsection (a) for an essential
10 telecommunications carrier that is also a rural tele-
11 phone company; and

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

20 (c) DUTY TO PROVIDE SUBSCRIBER LIST INFORMA-
21 TION.—

22 (1) IN GENERAL.—A carrier that provides local
23 exchange telephone service shall provide subscriber
24 list information gathered in its capacity as a pro-
25 vider of such service on a timely and unbundled

1 basis, under nondiscriminatory and reasonable rates,
2 terms, and conditions, to any person requesting such
3 information for the purpose of publishing directories
4 in any format.

5 (2) SUBSCRIBER LIST INFORMATION DE-
6 FINED.—As used in this subsection, the term “sub-
7 scribe list information” means any information—

8 (A) identifying the listed names of sub-
9 scribers of a carrier and such subscribers’ listed
10 telephone numbers, addresses, or primary ad-
11 vertising classifications, as such classifications
12 are assigned at the time of the establishment of
13 service, or any combination of such names,
14 numbers, addresses, or classifications; and

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

18 (d) CONFIDENTIALITY.—A telecommunications car-
19 rier has a duty to protect the confidentiality of proprietary
20 information of, and relating to, other common carriers and
21 customers, including common carriers reselling the tele-
22 communications services provided by a telecommuni-
23 cations carrier. A telecommunications carrier that receives
24 such information from another carrier for purposes of pro-
25 visioning, billing, or facilitating the resale of its service

1 shall use such information only for such purpose, and shall
2 not use such information for its own marketing efforts.
3 Nothing in this subsection prohibits a carrier from using
4 customer information obtained from its customers, either
5 directly or indirectly through its agents—

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

7 or

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

10 (e) REGULATORY RELIEF.—

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

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

16 (i) by striking “12 months” the first
17 place it appears in paragraph (2)(A) and
18 inserting “5 months”;

19 (ii) by striking “effective,” and all
20 that follows in paragraph (2)(A) and in-
21 serting “effective.”; and

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

24 “(3) A local exchange carrier may file with the
25 Commission a new or revised charge, classification,

1 regulation, or practice on a streamlined basis. Any
2 such charge, classification, regulation, or practice
3 shall be deemed lawful and shall be effective 7 days
4 (in the case of a reduction in rates) or 15 days (in
5 the case of an increase in rates) after the date on
6 which it is filed with the Commission unless the
7 Commission takes action under paragraph (1) before
8 the end of that 7-day or 15-day period, as is appro-
9 priate.”.

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

12 (i) by striking “12 months” the first
13 place it appears in paragraph (1) and in-
14 serting “5 months”; and

15 (ii) by striking “filed,” and all that
16 follows in paragraph (1) and inserting
17 “filed.”.

18 (2) EXTENSIONS OF LINES UNDER SECTION
19 214; ARMIS REPORTS.—Notwithstanding section 305,
20 the Commission shall permit any local exchange car-
21 rier—

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

1 (B) to file cost allocation manuals and
 2 ARMIS reports annually, to the extent such
 3 carrier is required to file such manuals or re-
 4 ports.

5 (3) FOREBEARANCE AUTHORITY NOT LIM-
 6 ITED.—Nothing in this subsection shall be construed
 7 to limit the authority of the Commission or a State
 8 to waive, modify, or forebear from applying any of
 9 the requirements to which reference is made in para-
 10 graph (1) under any other provision of this Act or
 11 other law.

12 **SEC. 302. BIENNIAL REVIEW OF REGULATIONS; ELIMI-**
 13 **NATION OF UNNECESSARY REGULATIONS**
 14 **AND FUNCTIONS.**

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

18 **“SEC. 259. REGULATORY REFORM.**

19 “(a) BIENNIAL REVIEW OF REGULATIONS.—In every
 20 odd-numbered year (beginning with 1997), the Commis-
 21 sion, with respect to its regulations under this Act, and
 22 a Federal-State Joint Board established under section
 23 410, for State regulations—

24 “(1) shall review all regulations issued under
 25 this Act, or under State law, in effect at the time

1 of the review that apply to operations or activities of
2 providers of any telecommunications services; and

3 “(2) shall determine whether any such regula-
4 tion is no longer necessary in the public interest as
5 the result of meaningful economic competition be-
6 tween the providers of such service.

7 “(b) EFFECT OF DETERMINATION.—The Commis-
8 sion shall repeal any regulation it determines to be no
9 longer necessary in the public interest. The Joint Board
10 shall notify the Governor of any State of any State regula-
11 tion it determines to be no longer necessary in the public
12 interest.

13 “(c) CLASSIFICATION OF CARRIERS.—In classifying
14 carriers according to 47 CFR 32.11 and in establishing
15 reporting requirements pursuant to 47 CFR part 43 and
16 47 CFR 64.903, the Commission shall adjust the revenue
17 requirements to account for inflation as of the release date
18 of the Commission’s Report and Order in CC Docket No.
19 91–141, and annually thereafter. This subsection shall
20 take effect on the date of enactment of the Telecommuni-
21 cations Act of 1995.”.

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

24 (1) REPEAL SETTING OF DEPRECIATION
25 RATES.—The first sentence of section 220(b) (47

1 U.S.C. 220(b)) is amended by striking “shall pre-
2 scribe for such carriers” and inserting “may pre-
3 scribe, for such carriers as it determines to be ap-
4 propriate,”.

5 (2) USE OF INDEPENDENT AUDITORS.—Section
6 220(c) (47 U.S.C. 220(c)) is amended by adding at
7 the end thereof the following: “The Commission may
8 obtain the services of any person licensed to provide
9 public accounting services under the law of any
10 State to assist with, or conduct, audits under this
11 section. While so employed or engaged in conducting
12 an audit for the Commission under this section, any
13 such person shall have the powers granted the Com-
14 mission under this subsection and shall be subject to
15 subsection (f) in the same manner as if that person
16 were an employee of the Commission.”.

17 (3) SIMPLIFICATION OF FEDERAL-STATE CO-
18 ORDINATION PROCESS.—The Commission shall sim-
19 plify and expedite the Federal-State coordination
20 process under section 410 of the Communications
21 Act of 1934.

22 (4) PRIVATIZATION OF SHIP RADIO INSPEC-
23 TIONS.—Section 385 (47 U.S.C. 385) is amended by
24 adding at the end thereof the following: “In accord-
25 ance with such other provisions of law as apply to

1 Government contracts, the Commission may enter
2 into contracts with any person for the purpose of
3 carrying out such inspections and certifying compli-
4 ance with those requirements, and may, as part of
5 any such contract, allow any such person to accept
6 reimbursement from the license holder for travel and
7 expense costs of any employee conducting an inspec-
8 tion or certification.”.

9 (5) MODIFICATION OF CONSTRUCTION PERMIT
10 REQUIREMENT.—Section 319(d) (47 U.S.C. 319(d))
11 is amended by striking the third sentence and insert-
12 ing the following: “The Commission may waive the
13 requirement for a construction permit with respect
14 to a broadcasting station in circumstances in which
15 it deems prior approval to be unnecessary. In those
16 circumstances, a broadcaster shall file any related li-
17 cense application within 10 days after completing
18 construction.”.

19 (6) LIMITATION ON SILENT STATION AUTHOR-
20 IZATIONS.—Section 312 (47 U.S.C. 312) is amended
21 by adding at the end the following:

22 “(g) If a broadcasting station fails to transmit broad-
23 cast signals for any consecutive 12-month period, then the
24 station license granted for the operation of that broadcast
25 station expires at the end of that period, notwithstanding

1 any provision, term, or condition of the license to the con-
2 trary.”.

3 (7) EXPEDITING INSTRUCTIONAL TELEVISION
4 FIXED SERVICE PROCESSING.—The Commission
5 shall delegate, under section 5(c) of the Communica-
6 tions Act of 1934, the conduct of routine instruc-
7 tional television fixed service cases to its staff for
8 consideration and final action.

9 (8) DELEGATION OF EQUIPMENT TESTING AND
10 CERTIFICATION TO PRIVATE LABORATORIES.—Sec-
11 tion 302 (47 U.S.C. 302) is amended by adding at
12 the end the following:

13 “(e) The Commission may—

14 “(1) authorize the use of private organizations
15 for testing and certifying the compliance of devices
16 or home electronic equipment and systems with reg-
17 ulations promulgated under this section;

18 “(2) accept as prima facie evidence of such
19 compliance the certification by any such organiza-
20 tion; and

21 “(3) establish such qualifications and standards
22 as it deems appropriate for such private organiza-
23 tions, testing, and certification.”.

24 (9) MAKING LICENSE MODIFICATION UNI-
25 FORM.—Section 303(f) (47 U.S.C. 303(f)) is amend-

1 ed by striking “unless, after a public hearing,” and
2 inserting “unless”.

3 (10) PERMIT OPERATION OF DOMESTIC SHIP
4 AND AIRCRAFT RADIOS WITHOUT LICENSE.—Section
5 307(e) (47 U.S.C. 307(e)) is amended by—

6 (A) striking “service and the citizens band
7 radio service” in paragraph (1) and inserting
8 “service, citizens band radio service, domestic
9 ship radio service, domestic aircraft radio serv-
10 ice, and personal radio service”; and

11 (B) striking “service’ and ‘citizens band
12 radio service’” in paragraph (3) and inserting
13 “service’, ‘citizens band radio service’, ‘domestic
14 ship radio service’, ‘domestic aircraft radio serv-
15 ice’, and ‘personal radio service’”.

16 (11) EXPEDITED LICENSING FOR FIXED MICRO-
17 WAVE SERVICE.—Section 309(b)(2) (47 U.S.C.
18 309(b)(2)) is amended by striking subparagraph (A)
19 and redesignating subparagraphs (B) through (G) as
20 (A) through (F), respectively.

21 (12) ELIMINATE FCC JURISDICTION OVER GOV-
22 ERNMENT-OWNED SHIP RADIO STATIONS.—

23 (A) Section 305 (47 U.S.C. 305) is amend-
24 ed by striking subsection (b) and redesignating

1 subsections (c) and (d) as (b) and (c), respec-
2 tively.

3 (B) Section 382(2) (47 U.S.C. 382(2)) is
4 amended by striking “except a vessel of the
5 United States Maritime Administration, the In-
6 land and Coastwise Waterways Service, or the
7 Panama Canal Company,”.

8 (13) MODIFICATION OF AMATEUR RADIO EXAM-
9 INATION PROCEDURES.—

10 (A) Section 4(f)(H)(N) (47 U.S.C.
11 4(f)(4)(B)) is amended by striking “trans-
12 missions, or in the preparation or distribution
13 of any publication used in preparation for ob-
14 taining amateur station operator licenses,” and
15 inserting “transmission”.

16 (B) The Commission shall modify its rules
17 governing the amateur radio examination proc-
18 ess by eliminating burdensome record mainte-
19 nance and annual financial certification require-
20 ments.

21 (14) STREAMLINE NON-BROADCAST RADIO LI-
22 CENSE RENEWALS.—The Commission shall modify
23 its rules under section 309 of the Communications
24 Act of 1934 (47 U.S.C. 309) relating to renewal of
25 nonbroadcast radio licenses so as to streamline or

1 eliminate comparative renewal hearings where such
2 hearings are unnecessary or unduly burdensome.

3 **SEC. 303. REGULATORY FORBEARANCE.**

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

7 **“SEC. 260. COMPETITION IN PROVISION OF TELECOMMUNI-**
8 **CATIONS SERVICE.**

9 “(a) REGULATORY FLEXIBILITY.—Notwithstanding
10 section 332(c)(1)(A) of this Act, the Commission shall for-
11 bear from applying any regulation or any provision of this
12 Act to a telecommunications carrier or service, or class
13 of carriers or services, in any or some of its or their geo-
14 graphic markets if the Commission determines that—

15 “(1) enforcement of such regulation or provi-
16 sion is not necessary to ensure that the charges,
17 practices, classifications, or regulations by, for, or in
18 connection with that carrier or service are just and
19 reasonable and are not unjustly or unreasonably dis-
20 criminatory;

21 “(2) enforcement of such regulation or provi-
22 sion is not necessary for the protection of consumers
23 or the preservation and advancement of universal
24 service; and

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

3 “(b) COMPETITIVE EFFECT TO BE WEIGHED.—In
4 making the determination under subsection (a)(3), the
5 Commission shall consider whether forbearance from en-
6 forcing the regulation or provision will promote competi-
7 tive market conditions, including the extent to which such
8 forbearance will enhance competition among providers of
9 telecommunications services. If the Commission deter-
10 mines that such forbearance will promote competition
11 among providers of telecommunications services, that de-
12 termination may be the basis for a Commission finding
13 that forbearance is in the public interest.

14 “(c) END OF REGULATION PROCESS.—Any tele-
15 communications carrier, or class of telecommunications
16 carriers, may submit a petition to the Commission re-
17 questing that the Commission exercise the authority
18 granted under this section with respect to that carrier or
19 those carriers, or any service offered by that carrier or
20 carriers. Any such petition shall be deemed granted if the
21 Commission does not deny the petition for failure to meet
22 the requirements for forbearance under subsection (a)
23 within 90 days after the Commission receives it, unless
24 the 90-day period is extended by the Commission. The
25 Commission may extend the initial 90-day period by an

1 additional 60 days if the Commission finds that an exten-
2 sion is necessary to meet the requirements of subsection
3 (a). The Commission may grant or deny a petition in
4 whole or in part and shall explain its decision in writing.

5 “(d) LIMITATION.—Except as provided in section
6 251(i)(3), the Commission may not waive the unbundling
7 requirements of section 251(b) or 255(b)(2) under sub-
8 section (a) until it determines that those requirements
9 have been fully implemented.”.

10 **SEC. 304. ADVANCED TELECOMMUNICATIONS INCENTIVES.**

11 (a) IN GENERAL.—The Commission and each State
12 commission with regulatory jurisdiction over telecommuni-
13 cations services shall encourage the deployment on a rea-
14 sonable and timely basis of advanced telecommunications
15 capability to all Americans (including, in particular, ele-
16 mentary and secondary schools and classrooms) by utiliz-
17 ing, in a manner consistent with the public interest, con-
18 venience, and necessity, price cap regulation, regulatory
19 forbearance, or other regulating methods that remove bar-
20 riers to infrastructure investment.

21 (b) INQUIRY.—The Commission shall, within 2 years
22 after the date of enactment of this Act, and regularly
23 thereafter, initiate a notice of inquiry concerning the avail-
24 ability of advanced telecommunications capability to all
25 Americans (including, in particular, elementary and sec-

1 ondary schools and classrooms) and shall complete the in-
2 quiry within 180 days after its initiation. In the inquiry,
3 the Commission shall determine whether advanced tele-
4 communications capability is being deployed to all Ameri-
5 cans in a reasonable and timely fashion. If the Commis-
6 sion's determination is negative, it shall take immediate
7 action under this section, and it may preempt State com-
8 missions that fail to act to ensure such availability.

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

10 (1) COMMUNICATIONS ACT TERMS.—Any term
11 used in this section which is defined in the Commu-
12 nications Act of 1934 shall have the same meaning
13 as it has in that Act.

14 (2) ADVANCED TELECOMMUNICATIONS CAPA-
15 BILITY.—The term “advanced telecommunications
16 capability” means high-speed, switched, broadband
17 telecommunications capability that enables users to
18 originate and receive high-quality voice, data, graph-
19 ics, and video telecommunications.

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

1 **SEC. 305. REGULATORY PARITY.**

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

4 (1) issue such modifications or terminations of
5 the regulations applicable to persons offering tele-
6 communications or information services under title
7 II, III, or VI of the Communications Act of 1934 as
8 are necessary to implement the changes in such Act
9 made by this Act;

10 (2) in the regulations that apply to integrated
11 telecommunications service providers, take into ac-
12 count the unique and disparate histories associated
13 with the development and relative market power of
14 such providers, making such modifications and ad-
15 justments as are necessary in the regulation of such
16 providers as are appropriate to enhance competition
17 between such providers in light of that history; and

18 (3) provide for periodic reconsideration of any
19 modifications or terminations made to such regula-
20 tions, with the goal of applying the same set of regu-
21 latory requirements to all integrated telecommuni-
22 cations service providers, regardless of which par-
23 ticular telecommunications or information service
24 may have been each provider's original line of busi-
25 ness.

1 **SEC. 306. AUTOMATED SHIP DISTRESS AND SAFETY SYS-**
2 **TEMS.**

3 Notwithstanding any provision of the Communica-
4 tions Act of 1934 or any other provision of law or regula-
5 tion, a ship documented under the laws of the United
6 States operating in accordance with the Global Maritime
7 Distress and Safety System provisions of the Safety of
8 Life at Sea Convention shall not be required to be
9 equipped with a radio telegraphy station operated by one
10 or more radio officers or operators. This section shall take
11 effect for each vessel upon a determination by the United
12 States Coast Guard that such vessel has the equipment
13 required to implement the Global Maritime Distress and
14 Safety System installed and operating in good working
15 condition.

16 **SEC. 307. TELECOMMUNICATIONS NUMBERING ADMINIS-**
17 **TRATION.**

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

21 **“SEC. 261. TELECOMMUNICATIONS NUMBERING ADMINIS-**
22 **TRATION.**

23 “(a) INTERIM NUMBER PORTABILITY.—In connec-
24 tion with any interconnection agreement reached under
25 section 251 of this Act, a local exchange carrier shall make
26 available interim telecommunications number portability,

1 upon request, beginning on the date of enactment of the
2 Telecommunications Act of 1995.

3 “(b) FINAL NUMBER PORTABILITY.—In connection
4 with any interconnection agreement reached under section
5 251 of this Act, a local exchange carrier shall make avail-
6 able final telecommunications number portability, upon re-
7 quest, when the Commission determines that final tele-
8 communications number portability is technically feasible.

9 “(c) NEUTRAL ADMINISTRATION OF NUMBERING
10 PLANS.—

11 “(1) NATIONWIDE NEUTRAL NUMBER SYSTEM
12 COMPLIANCE.— A telecommunications carrier pro-
13 viding telephone exchange service shall comply with
14 the guidelines, plan, or rules established by an im-
15 partial entity designated or created by the Commis-
16 sion for the administration of a nationwide neutral
17 number system.

18 “(2) OVERLAY OF AREA CODES NOT PER-
19 MITTED.—All telecommunications carriers providing
20 telephone exchange service in the same telephone
21 service area shall be permitted to use the same num-
22 bering plan area code under such guideline, plan, or
23 rules.

24 “(d) COSTS.—The cost of establishing neutral num-
25 ber administration arrangements and number portability

1 shall be borne by all telecommunications carriers on a
 2 competitively neutral basis as determined by the Commis-
 3 sion.”.

4 **SEC. 308. ACCESS BY PERSONS WITH DISABILITIES.**

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

8 **“SEC. 262. ACCESS BY PERSONS WITH DISABILITIES.**

9 “(a) DEFINITIONS.—As used in this section—

10 “(1) DISABILITY.—The term ‘disability’ has the
 11 meaning given to it by section 3(2)(A) of the Ameri-
 12 cans with Disabilities Act of 1990 (42 U.S.C.
 13 12102(2)(A)).

14 “(2) READILY ACHIEVABLE.—The term ‘readily
 15 achievable’ has the meaning given to it by section
 16 301(9) of that Act (42 U.S.C. 12181(9)).

17 “(b) MANUFACTURING.—A manufacturer of tele-
 18 communications equipment and customer premises equip-
 19 ment shall ensure that the equipment is designed, devel-
 20 oped, and fabricated to be accessible to and usable by indi-
 21 viduals with disabilities, if readily achievable.

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

1 “(d) COMPATIBILITY.—Whenever the requirements
2 of subsections (b) and (c) are not readily achievable, such
3 a manufacturer or provider shall ensure that the equip-
4 ment or service is compatible with existing peripheral de-
5 vices or specialized customer premises equipment com-
6 monly used by individuals with disabilities to achieve ac-
7 cess, if readily achievable.

8 “(e) GUIDELINES.—Within 18 months after the date
9 of enactment of the Telecommunications Act of 1995, the
10 Architectural and Transportation Barriers Compliance
11 Board shall develop guidelines for accessibility of tele-
12 communications equipment and customer premises equip-
13 ment in conjunction with the Commission, the National
14 Telecommunications and Information Administration and
15 the National Institute of Standards and Technology. The
16 Board shall review and update the guidelines periodically.

17 “(f) CLOSED CAPTIONING.—

18 “(1) IN GENERAL.—The Commission shall en-
19 sure that—

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

23 “(B) video programming providers or own-
24 ers maximize the accessibility of video program-
25 ming previously published or exhibited through

1 the provision of closed captions, if readily
2 achievable, except as provided in paragraph (2).

3 “(2) EXEMPTIONS.—Notwithstanding para-
4 graph (1)—

5 “(A) the Commission may exempt pro-
6 grams, classes of programs, locally produced
7 programs, providers, classes of providers, or
8 services for which the Commission has deter-
9 mined that the provision of closed captioning
10 would not be readily achievable to the provider
11 or owner of such programming;

12 “(B) a provider of video programming or
13 the owner of any program carried by the pro-
14 vider shall not be obligated to supply closed
15 captions if such action would be inconsistent
16 with a binding contract in effect on the date of
17 enactment of the Telecommunications Act of
18 1995 for the remaining term of that contract
19 (determined without regard to any extension of
20 such term), except that nothing in this subpara-
21 graph relieves a video programming provider of
22 its obligation to provide services otherwise re-
23 quired by Federal law; and

24 “(C) a provider of video programming or a
25 program owner may petition the Commission

1 for an exemption from the requirements of this
2 section, and the Commission may grant such a
3 petition upon a showing that the requirements
4 contained in this section would not be readily
5 achievable.

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

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

18 (b) VIDEO DESCRIPTION.—Within 18 months after
19 the date of enactment of this Act, the Commission shall
20 commence a study of the feasibility of requiring the use
21 of video descriptions on video programming in order to
22 ensure the accessibility of video programming to individ-
23 uals with visual impairments. For purposes of this sub-
24 section, the term “video description” means the insertion
25 of audio narrative descriptions of a television program’s

1 key visual elements into natural pauses between the pro-
2 gram’s dialogue.

3 **SEC. 309. RURAL MARKETS.**

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

7 **“SEC. 263. RURAL MARKETS.**

8 “(a) STATE AUTHORITY IN RURAL MARKETS.—Ex-
9 cept as provided in section 251(i)(3), a State may not
10 waive or modify any requirements of section 251, but may
11 adopt statutes or regulations that are no more restrictive
12 than—

13 “(1) to require an enforceable commitment by
14 each competing provider of telecommunications serv-
15 ice to offer universal service comparable to that of-
16 fered by the rural telephone company currently pro-
17 viding service in that service area, and to make such
18 service available within 24 months of the approval
19 date to all consumers throughout that service area
20 on a common carrier basis, either using the appli-
21 cant’s facilities or through its own facilities and re-
22 sale of services using another carrier’s facilities (in-
23 cluding the facilities of the rural telephone com-
24 pany), and subject to the same terms, conditions,
25 and rate structure requirements as those applicable

1 to the rural telephone company currently providing
2 universal service;

3 “(2) to require that the State must approve an
4 application by a competing telecommunications car-
5 rier to provide services in a market served by a rural
6 telephone company and that approval be based on
7 sufficient written public findings and conclusions to
8 demonstrate that such approval is in the public in-
9 terest and that there will not be a significant ad-
10 verse impact on users of telecommunications services
11 or on the provision of universal service;

12 “(3) to encourage the development and deploy-
13 ment of advanced telecommunications and informa-
14 tion infrastructure and services in rural areas; or

15 “(4) to protect the public safety and welfare,
16 ensure the continued quality of telecommunications
17 and information services, or safeguard the rights of
18 consumers.

19 “(b) PREEMPTION.—Upon a proper showing, the
20 Commission may preempt any State statute or regulation
21 that the Commission finds to be inconsistent with the
22 Commission’s regulations implementing this section, or an
23 arbitrary or unreasonably discriminatory application of
24 such statute or regulation. The Commission shall act upon
25 any bona fide petition filed under this subsection within

1 180 days of receiving such petition. Pending such action,
 2 the Commission may, in the public interest, suspend or
 3 modify application of any statute or regulation to which
 4 the petition applies.”.

5 **SEC. 310. TELECOMMUNICATIONS SERVICES FOR HEALTH**
 6 **CARE PROVIDERS FOR RURAL AREAS, EDU-**
 7 **CATIONAL PROVIDERS, AND LIBRARIES.**

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

11 **“SEC. 264. TELECOMMUNICATIONS SERVICES FOR CERTAIN**
 12 **PROVIDERS.**

13 “(a) IN GENERAL.—

14 “(1) HEALTH CARE PROVIDERS FOR RURAL
 15 AREAS.—A telecommunications carrier shall, upon
 16 receiving a bona fide request, provide telecommuni-
 17 cations services which are necessary for the provision
 18 of health care services, including instruction relating
 19 to such services, at rates that are reasonably com-
 20 parable to rates charged for similar services in
 21 urban areas to any public or nonprofit health care
 22 provider that serves persons who reside in rural
 23 areas. A telecommunications carrier providing serv-
 24 ice pursuant to this paragraph shall be entitled to
 25 have an amount equal to the difference, if any, be-

1 tween the price for services provided to health care
2 providers for rural areas and the price for similar
3 services provided to other customers in comparable
4 urban areas treated as a service obligation as a part
5 of its obligation to participate in the mechanisms to
6 preserve and advance universal service under section
7 253(c).

8 “(2) EDUCATIONAL PROVIDERS AND LIBRAR-
9 IES.—All telecommunications carriers serving a geo-
10 graphic area shall, upon a bona fide request, provide
11 to elementary schools, secondary schools, and librar-
12 ies universal services (as defined in section 253) that
13 permit such schools and libraries to provide or re-
14 ceive telecommunications services for educational
15 purposes at rates less than the amounts charged for
16 similar services to other parties. The discount shall
17 be an amount that the Commission and the States
18 determine is appropriate and necessary to ensure af-
19 fordable access to and use of such telecommuni-
20 cations by such entities. A telecommunications car-
21 rier providing service pursuant to this paragraph
22 shall be entitled to have an amount equal to the
23 amount of the discount treated as a service obliga-
24 tion as part of its obligation to participate in the

1 mechanisms to preserve and advance universal serv-
2 ice under section 253(c).

3 “(b) UNIVERSAL SERVICE MECHANISMS.—The Com-
4 mission shall include consideration of the universal service
5 provided to public institutional telecommunications users
6 in any universal service mechanism it may establish under
7 section 253.

8 “(c) ADVANCED SERVICES.—The Commission shall
9 establish rules—

10 “(1) to enhance, to the extent technically fea-
11 sible and economically reasonable, the availability of
12 advanced telecommunications and information serv-
13 ices to all public and nonprofit elementary and sec-
14 ondary school classrooms, health care providers, and
15 libraries;

16 “(2) to ensure that appropriate functional re-
17 quirements or performance standards, or both, in-
18 cluding interconnection standards, are established
19 for telecommunications carriers that connect such
20 public institutional telecommunications users with
21 the public switched network;

22 “(3) to define the circumstances under which a
23 telecommunications carrier may be required to con-
24 nect its network to such public institutional tele-
25 communications users; and

1 “(4) to address other matters as the Commis-
2 sion may determine.

3 “(d) DEFINITIONS.—

4 “(1) ELEMENTARY AND SECONDARY
5 SCHOOLS.—The term ‘elementary and secondary
6 schools’ means elementary schools and secondary
7 schools, as defined in paragraphs (14) and (25), re-
8 spectively, of section 14101 of the Elementary and
9 Secondary Education Act of 1965 (20 U.S.C. 8801).

10 “(2) UNIVERSAL SERVICE.—The Commission
11 may in the public interest provide a separate defini-
12 tion of universal service under section 253(b) for ap-
13 plication only to public institutional telecommuni-
14 cations users.

15 “(3) HEALTH CARE PROVIDER.—The term
16 ‘health care provider’ means—

17 “(A) Post-secondary educational institu-
18 tions, teaching hospitals, and medical schools.

19 “(B) Community health centers or health
20 centers providing health care to migrants.

21 “(C) Local health departments or agencies.

22 “(D) Community mental health centers.

23 “(E) Not-for-profit hospitals.

24 “(F) Rural health clinics.

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

4 “(4) PUBLIC INSTITUTIONAL TELECOMMUNI-
5 CATIONS USER.—The term ‘public institutional tele-
6 communications user’ means an elementary or sec-
7 ondary school, a library, or a health care provider as
8 those terms are defined in this subsection.

9 “(e) TERMS AND CONDITIONS.—Telecommunications
10 services and network capacity provided under this section
11 may not be sold, resold, or otherwise transferred in consid-
12 eration for money or any other thing of value.

13 “(f) ELIGIBILITY OF COMMUNITY USERS.—No entity
14 listed in this section shall be entitled for preferential rates
15 or treatment as required by this section, if such entity op-
16 erates as a for-profit business, is a school as defined in
17 section 264(d)(1) with an endowment of more than
18 \$50,000,000, or is a library not eligible for participation
19 in State-based plans for Library Services and Construc-
20 tion Act Title III funds.”.

21 **SEC. 311. PROVISION OF PAYPHONE SERVICE AND**
22 **TELEMESSAGING SERVICE.**

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

1 **“SEC. 265. PROVISION OF PAYPHONE SERVICE AND**
2 **TELEMESSAGING SERVICE.**

3 “(a) NONDISCRIMINATION SAFEGUARDS.—Any Bell
4 operating company that provides payphone service or
5 telemessaging service—

6 “(1) shall not subsidize its payphone service or
7 telemessaging service directly or indirectly with reve-
8 nue from its telephone exchange service or its ex-
9 change access service; and

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

12 “(b) DEFINITIONS.—As used in this section—

13 “(1) The term ‘payphone service’ means the
14 provision of telecommunications service through pub-
15 lic or semi-public pay telephones, and includes the
16 provision of service to inmates in correctional insti-
17 tutions.

18 “(2) The term ‘telemessaging service’ means
19 voice mail and voice storage and retrieval services,
20 any live operator services used to record, transcribe,
21 or relay messages (other than telecommunications
22 relay services), and any ancillary services offered in
23 combination with these services.

24 “(c) REGULATIONS.—Not later than 18 months after
25 the date of enactment of the Telecommunications Act of
26 1995, the Commission shall complete a rulemaking pro-

ceeding to prescribe regulations to carry out this section. In that rulemaking proceeding, the Commission shall determine whether, in order to enforce the requirements of this section, it is appropriate to require the Bell operating companies to provide payphone service or telemessaging service through a separate subsidiary that meets the requirements of section 252.”.

SEC. 312. DIRECT BROADCAST SATELLITE.

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

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

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

1 TITLE IV—OBSCENE, HARRASSING, AND
2 WRONGFUL UTILIZATION OF TELE-
3 COMMUNICATIONS FACILITIES

4 **SEC. 401. SHORT TITLE.**

5 This title may be cited as the “Communications De-
6 cency Act of 1995”.

7 **SEC. 402. OBSCENE OR HARASSING USE OF TELECOMMUNI-**
8 **CATIONS FACILITIES UNDER THE COMMU-**
9 **NICATIONS ACT OF 1934.**

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

12 “(1) by striking subsection (a) and inserting in
13 lieu thereof:

14 “(a) Whoever—

15 “(1) in the District of Columbia or in interstate
16 or foreign communications—

17 “(A) by means of telecommunications de-
18 vice knowingly—

19 “(i) makes, creates, or solicits, and

20 “(ii) initiates the transmission of,
21 any comment, request, suggestion, proposal,
22 image, or other communication which is ob-
23 scene, lewd, lascivious, filthy, or indecent, with
24 intent to annoy, abuse, threaten, or harass an-
25 other person;

1 “(B) makes a telephone call or utilizes a
2 telecommunications device, whether or not con-
3 versation or communication ensues, without dis-
4 closing his identity and with intent to annoy,
5 abuse, threaten, or harass any person at the
6 called number or who receives the communica-
7 tions;

8 “(C) makes or causes the telephone of an-
9 other repeatedly or continuously to ring, with
10 intent to harass any person at the called num-
11 ber; or

12 “(D) makes repeated telephone calls or re-
13 peatedly initiates communication with a tele-
14 communications device, during which conversa-
15 tion or communication ensues, solely to harass
16 any person at the called number or who receives
17 the communication;

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

22 shall be fined not more than \$100,000 or imprisoned not
23 more than two years, or both.”; and

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

1 “(d) Whoever—

2 “(1) knowingly within the United States or in
3 foreign communications with the United States by
4 means of telecommunications device makes or makes
5 available any obscene communication in any form in-
6 cluding any comment, request, suggestion, proposal,
7 or image regardless of whether the maker of such
8 communication placed the call or initiated the com-
9 munications; or

10 “(2) knowingly permits any telecommunications
11 facility under such person’s control to be used for an
12 activity prohibited by subsection (d)(1) with the in-
13 tent that it be used for such activity;

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

16 “(e) Whoever—

17 “(1) knowingly within the United States or in
18 foreign communications with the United States by
19 means of telecommunications device makes or makes
20 available any indecent communication in any form
21 including any comment, request, suggestion, pro-
22 posal, image, to any person under 18 years of age
23 regardless of whether the maker of such communica-
24 tion placed the call or initiated the communication;
25 or

1 “(2) knowingly permits any telecommunications
2 facility under such person’s control to be used for an
3 activity prohibited by paragraph (1) with the intent
4 that it be used for such activity,
5 shall be fined not more than \$100,000 or imprisoned not
6 more than two years, or both.

7 “(f) Defenses to the subsections (a), (d), and (e), re-
8 strictions on access, judicial remedies respecting restric-
9 tions for persons providing information services and access
10 to information services—

11 “(1) No person shall be held to have violated
12 subsection (a), (d), or (e) solely for providing access
13 or connection to or from a facility, system, or net-
14 work over which that person has no control, includ-
15 ing related capabilities which are incidental to pro-
16 viding access or connection. This subsection shall
17 not be applicable to a person who is owned or con-
18 trolled by, or a conspirator with, an entity actively
19 involved in the creation, editing or knowing distribu-
20 tion of communications which violate this section.

21 “(2) No employer shall be held liable under this
22 section for the actions of an employee or agent un-
23 less the employee’s or agent’s conduct is within the
24 scope of his employment or agency and the employer

1 has knowledge of, authorizes, or ratifies the employ-
2 ee's or agent's conduct.

3 “(3) It is a defense to prosecution under sub-
4 section (a), (d)(2), or (e) that a person has taken
5 reasonable, effective and appropriate actions in good
6 faith to restrict or prevent the transmission of, or
7 access to a communication specified in such sub-
8 sections, or complied with procedures as the Com-
9 mission may prescribe in furtherance of this section.
10 Until such regulations become effective, it is a de-
11 fense to prosecution that the person has complied
12 with the procedures prescribed by regulation pursu-
13 ant to subsection (b)(3). Nothing in this subsection
14 shall be construed to treat enhanced information
15 services as common carriage.

16 “(4) No cause of action may be brought in any
17 court or administrative agency against any person
18 on account of any activity which is not in violation
19 of any law punishable by criminal or civil penalty,
20 which activity the person has taken in good faith to
21 implement a defense authorized under this section or
22 otherwise to restrict or prevent the transmission of,
23 or access to, a communication specified in this sec-
24 tion.

1 “(g) No State or local government may impose any
2 liability for commercial activities or actions by commercial
3 entities in connection with an activity or action which con-
4 stitutes a violation described in subsection (a)(2), (d)(2),
5 or (e)(2) that is inconsistent with the treatment of those
6 activities or actions under this section: *Provided, however,*
7 That nothing herein shall preclude any State or local gov-
8 ernment from enacting and enforcing complementary over-
9 sight, liability, and regulatory systems, procedures, and re-
10 quirements, so long as such systems, procedures, and re-
11 quirements govern only intrastate services and do not re-
12 sult in the imposition of inconsistent rights, duties or obli-
13 gations on the provision of interstate services. Nothing in
14 this subsection shall preclude any State or local govern-
15 ment from governing conduct not covered by this section.

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

20 “(i) The use of the term ‘telecommunications device’
21 in this section shall not impose new obligations on (one-
22 way) broadcast radio or (one-way) broadcast television op-
23 erators licensed by the Commission or (one-way) cable
24 service registered with the Federal Communications Com-

1 mission and covered by obscenity and indecency provisions
2 elsewhere in this Act.

3 “(j) Within two years from the date of enactment and
4 every two years thereafter, the Commission shall report
5 on the effectiveness of this section.”.

6 **SEC. 403. OBSCENE PROGRAMMING ON CABLE TELEVISION.**

7 Section 639 (47 U.S.C. 559) is amended by striking
8 “\$10,000” and inserting “\$100,000”.

9 **SEC. 404. BROADCASTING OBSCENE LANGUAGE ON RADIO.**

10 Section 1464 of title 18, United States Code, is
11 amended by striking out “\$10,000” and inserting
12 “\$100,000”.

13 **SEC. 405. SEPARABILITY.**

14 (a) If any provision of this title, including amend-
15 ments to this title or the application thereof to any person
16 or circumstance is held invalid, the remainder of this title
17 and the application of such provision to other persons or
18 circumstances shall not be affected thereby.

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

21 Section 228(c)(7) (47 U.S.C. 228(c)(7)) is amend-
22 ed—

23 (1) by striking “or” at the end of subparagraph
24 (C);

1 (2) by striking the period at the end of sub-
2 paragraph (D) and inserting a semicolon and “or”;
3 and

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

5 “(E) the calling party being assessed, by
6 virtue of being asked to connect or otherwise
7 transfer to a pay-per-call service, a charge for
8 the call.”.

9 **SEC. 407. SCRAMBLING OF CABLE CHANNELS FOR**
10 **NONSUBSCRIBERS.**

11 Part IV of title VI (47 U.S. C. 551 et seq.) is amend-
12 ed by adding at the end the following:

13 **“SEC. 640. SCRAMBLING OF CABLE CHANNELS FOR**
14 **NONSUBSCRIBERS.**

15 “(a) REQUIREMENT.—In providing video program-
16 ming unsuitable for children to any subscriber through a
17 cable system, a cable operator shall fully scramble or oth-
18 erwise fully block the video and audio portion of each
19 channel carrying such programming upon subscriber re-
20 quest and without any charge so that one not a subscriber
21 does not receive it.

22 “(b) DEFINITION.—As used in this section, the term
23 ‘scramble’ means to rearrange the content of the signal
24 of the programming so that the programming cannot be

1 received by persons unauthorized to receive the program-
2 ming.”.

3 **SEC. 408. SCRAMBLING OF SEXUALLY EXPLICIT ADULT**
4 **VIDEO SERVICE PROGRAMMING.**

5 (a) REQUIREMENT.—Part IV of title VI (47 U.S.C.
6 551 et seq.), as amended by this Act, is further amended
7 by adding at the end the following:

8 **“SEC. 641. SCRAMBLING OF SEXUALLY EXPLICIT ADULT**
9 **VIDEO SERVICE PROGRAMMING.**

10 “(a) REQUIREMENT.—In providing sexually explicit
11 adult programming or other programming that is indecent
12 and harmful to children on any channel of its service pri-
13 marily dedicated to sexually-oriented programming, a mul-
14 tichannel video programming distributor shall fully scram-
15 ble or otherwise fully block the video and audio portion
16 of such channel so that one not a subscriber to such chan-
17 nel or programming does not receive it.

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

1 “(c) DEFINITION.—As used in this section, the term
2 ‘scramble’ means to rearrange the content of the signal
3 of the programming so that audio and video portions of
4 the programming cannot be received by persons unauthor-
5 ized to receive the programming.”.

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

9 **SEC. 409. CABLE OPERATOR REFUSAL TO CARRY CERTAIN**
10 **PROGRAMS.**

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

17 (b) CABLE CHANNELS FOR COMMERCIAL USE.—Sec-
18 tion 612(c)(2) (47 U.S.C. 532(c)(2)) is amended by strik-
19 ing “an operator” and inserting “a cable operator may
20 refuse to transmit any leased access program or portion
21 of a leased access program which contains obscenity, inde-
22 cency, or nudity”.

1 **SEC. 410. RESTRICTIONS ON ACCESS BY CHILDREN TO OB-**
2 **SCENE AND INDECENT MATERIAL ON ELEC-**
3 **TRONIC INFORMATION NETWORKS OPEN TO**
4 **THE PUBLIC.**

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

7 (1) to encourage the voluntary use of tags in
8 the names, addresses, or text of electronic files con-
9 taining obscene, indecent, or mature text or graphics
10 that are made available to the public through public
11 information networks in order to ensure the ready
12 identification of files containing such text or graph-
13 ics;

14 (2) to encourage developers of computer soft-
15 ware that provides access to or interface with a pub-
16 lic information network to develop software that per-
17 mits users of such software to block access to or
18 interface with text or graphics identified by such
19 tags; and

20 (3) to encourage the telecommunications indus-
21 try and the providers and users of public informa-
22 tion networks to take practical actions (including the
23 establishment of a board consisting of appropriate
24 members of such industry, providers, and users) to
25 develop a highly effective means of preventing the
26 access of children through public information net-

1 works to electronic files that contain such text or
2 graphics,
3 the Secretary of Commerce shall take appropriate steps
4 to make information on the tags established and utilized
5 in voluntary compliance with this subsection available to
6 the public through public information networks.

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

- 12 (1) describe the tags so established and utilized;
- 13 (2) assess the effectiveness of such tags in pre-
14 venting the access of children to electronic files that
15 contain obscene, indecent, or mature text or graph-
16 ics through public information networks; and
- 17 (3) provide recommendations for additional
18 means of preventing such access.

19 (c) DEFINITIONS.—In this section:

- 20 (1) The term “public information network”
21 means the Internet, electronic bulletin boards, and
22 other electronic information networks that are open
23 to the public.
- 24 (2) The term “tag” means a part or segment
25 of the name, address, or text of an electronic file.

1 TITLE V—PARENTAL CHOICE IN TELEVISION

2 **SEC. 501. SHORT TITLE.**

3 This title may be cited as the “Parental Choice in
4 Television Act of 1995”.

5 **SEC. 502. FINDINGS.**

6 Congress makes the following findings:

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

11 (2) The average American child watches 8,000
12 murders and 100,000 acts of other violence on tele-
13 vision by the time the child completes elementary
14 school.

15 (3) By the age of 18 years, the average Amer-
16 ican teenager has watched 200,000 acts of violence
17 on television, including 40,000 murders.

18 (4) On several occasions since 1975, The Jour-
19 nal of the American Medical Association has alerted
20 the medical community to the adverse effects of tele-
21 vised violence on child development, including an in-
22 crease in the level of aggressive behavior and violent
23 behavior among children who view it.

24 (5) The National Commission on Children rec-
25 ommended in 1991 that producers of television pro-

1 grams exercise greater restraint in the content of
2 programming for children.

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

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

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

18 **SEC. 503. RATING CODE FOR VIOLENCE AND OTHER OBJEC-**
19 **TIONABLE CONTENT ON TELEVISION.**

20 (a) SENSE OF CONGRESS ON VOLUNTARY ESTAB-
21 LISHMENT OF RATING CODE.—It is the sense of Con-
22 gress—

23 (1) to encourage appropriate representatives of
24 the broadcast television industry and the cable tele-
25 vision industry to establish in a voluntary manner

1 rules for rating the level of violence or other objec-
2 tionable content in television programming, includ-
3 ing rules for the transmission by television broadcast
4 stations and cable systems of—

5 (A) signals containing ratings of the level
6 of violence or objectionable content in such pro-
7 gramming; and

8 (B) signals containing specifications for
9 blocking such programming;

10 (2) to encourage such representatives to estab-
11 lish such rules in consultation with appropriate pub-
12 lic interest groups and interested individuals from
13 the private sector; and

14 (3) to encourage television broadcasters and
15 cable operators to comply voluntarily with such rules
16 upon the establishment of such rules.

17 (b) REQUIREMENT FOR ESTABLISHMENT OF RATING
18 CODE.—

19 (1) IN GENERAL.—If the representatives of the
20 broadcast television industry and the cable television
21 industry do not establish the rules referred to in
22 subsection (a)(1) by the end of the 1-year period be-
23 ginning on the date of the enactment of this Act,
24 there shall be established on the day following the
25 end of that period a commission to be known as the

1 Television Rating Commission (hereafter in this sec-
2 tion referred to as the “Television Commission”).
3 The Television Commission shall be an independent
4 establishment in the executive branch as defined
5 under section 104 of title 5, United States Code.

6 (2) MEMBERS.—

7 (A) IN GENERAL.—The Television Com-
8 mission shall be composed of 5 members ap-
9 pointed by the President, by and with the ad-
10 vice and consent of the Senate, of whom—

11 (i) three shall be individuals who are
12 members of appropriate public interest
13 groups or are interested individuals from
14 the private sector; and

15 (ii) two shall be representatives of the
16 broadcast television industry and the cable
17 television industry.

18 (B) NOMINATION.—Individuals shall be
19 nominated for appointment under subparagraph
20 (A) not later than 60 days after the date of the
21 establishment of the Television Commission.

22 (D) TERMS.—Each member of the Tele-
23 vision Commission shall serve until the termi-
24 nation of the commission.

1 (E) VACANCIES.—A vacancy on the Tele-
2 vision Commission shall be filled in the same
3 manner as the original appointment.

4 (2) DUTIES OF TELEVISION COMMISSION.—The
5 Television Commission shall establish rules for rat-
6 ing the level of violence or other objectionable con-
7 tent in television programming, including rules for
8 the transmission by television broadcast stations and
9 cable systems of—

10 (A) signals containing ratings of the level
11 of violence or objectionable content in such pro-
12 gramming; and

13 (B) signals containing specifications for
14 blocking such programming.

15 (3) COMPENSATION OF MEMBERS.—

16 (A) CHAIRMAN.—The Chairman of the
17 Television Commission shall be paid at a rate
18 equal to the daily equivalent of the minimum
19 annual rate of basic pay payable for level IV of
20 the Executive Schedule under section 5314 of
21 title 5, United States Code, for each day (in-
22 cluding traveltime) during which the Chairman
23 is engaged in the performance of duties vested
24 in the commission.

1 (B) OTHER MEMBERS.—Except for the
2 Chairman who shall be paid as provided under
3 subparagraph (A), each member of the Tele-
4 vision Commission shall be paid at a rate equal
5 to the daily equivalent of the minimum annual
6 rate of basic pay payable for level V of the Ex-
7 ecutive Schedule under section 5315 of title 5,
8 United States Code, for each day (including
9 traveltime) during which the member is en-
10 gaged in the performance of duties vested in
11 the commission.

12 (4) STAFF.—

13 (A) IN GENERAL.—The Chairman of the
14 Television Commission may, without regard to
15 the civil service laws and regulations, appoint
16 and terminate an executive director and such
17 other additional personnel as may be necessary
18 to enable the commission to perform its duties.
19 The employment of an executive director shall
20 be subject to confirmation by the commission.

21 (B) COMPENSATION.—The Chairman of
22 the Television Commission may fix the com-
23 pensation of the executive director and other
24 personnel without regard to the provisions of
25 chapter 51 and subchapter III of chapter 53 of

1 title 5, United States Code, relating to classi-
2 fication of positions and General Schedule pay
3 rates, except that the rate of pay for the execu-
4 tive director and other personnel may not ex-
5 ceed the rate payable for level V of the Execu-
6 tive Schedule under section 5316 of such title.

7 (5) CONSULTANTS.—The Television Commis-
8 sion may procure by contract, to the extent funds
9 are available, the temporary or intermittent services
10 of experts or consultants under section 3109 of title
11 5, United States Code. The commission shall give
12 public notice of any such contract before entering
13 into such contract.

14 (6) FUNDING.—There is authorized to be ap-
15 propriated to the Commission such sums as are nec-
16 essary to enable the Commission to carry out its du-
17 ties under this Act.

18 **SEC. 504. REQUIREMENT FOR MANUFACTURE OF TELE-**
19 **VISIONS THAT BLOCK PROGRAMS.**

20 (a) REQUIREMENT.—Section 303 (47 U.S.C. 303),
21 as amended by this Act, is further amended by adding
22 at the end the following:

23 “(w) Require, in the case of apparatus designed to
24 receive television signals that are manufactured in the
25 United States or imported for use in the United States

1 and that have a picture screen 13 inches or greater in
2 size (measured diagonally), that such apparatus—

3 “(1) be equipped with circuitry designed to en-
4 able viewers to block the display of channels during
5 particular time slots; and

6 “(2) enable viewers to block display of all pro-
7 grams with a common rating.”.

8 (b) IMPLEMENTATION.—In adopting the requirement
9 set forth in section 303(w) of the Communications Act of
10 1934, as added by subsection (a), the Federal Commu-
11 nications Commission, in consultation with the television
12 receiver manufacturing industry, shall determine a date
13 for the applicability of the requirement to the apparatus
14 covered by that section.

15 **SEC. 505. SHIPPING OR IMPORTING OF TELEVISIONS THAT**
16 **BLOCK PROGRAMS.**

17 (a) REGULATIONS.—Section 330 (47 U.S.C. 330) is
18 amended—

19 (1) by redesignating subsection (c) as sub-
20 section (d); and

21 (2) by adding after subsection (b) the following
22 new subsection (c):

23 “(c)(1) Except as provided in paragraph (2), no per-
24 son shall ship in interstate commerce, manufacture, as-
25 semble, or import from any foreign country into the Unit-

1 ed States any apparatus described in section 303(w) of
2 this Act except in accordance with rules prescribed by the
3 Commission pursuant to the authority granted by that
4 section.

5 “(2) This subsection shall not apply to carriers trans-
6 porting apparatus referred to in paragraph (1) without
7 trading it.

8 “(3) The rules prescribed by the Commission under
9 this subsection shall provide performance standards for
10 blocking technology. Such rules shall require that all such
11 apparatus be able to receive transmitted rating signals
12 which conform to the signal and blocking specifications es-
13 tablished by the Commission.

14 “(4) As new video technology is developed, the Com-
15 mission shall take such action as the Commission deter-
16 mines appropriate to ensure that blocking service contin-
17 ues to be available to consumers.”.

18 (b) CONFORMING AMENDMENT.—Section 330(d), as
19 redesignated by subsection (a)(1), is amended by striking
20 “section 303(s), and section 303(u)” and inserting in lieu
21 thereof “and sections 303(s), 303(u), and 303(w)”.

1 TITLE VI—NATIONAL EDUCATION
2 TECHNOLOGY FUNDING CORPORATION

3 **SEC. 601. SHORT TITLE.**

4 This title may be cited as the “National Education
5 Technology Funding Corporation Act of 1995”.

6 **SEC. 602. FINDINGS; PURPOSE.**

7 (a) FINDINGS.—The Congress finds as follows:

8 (1) CORPORATION.—There has been established
9 in the District of Columbia a private, nonprofit cor-
10 poration known as the National Education Tech-
11 nology Funding Corporation which is not an agency
12 or independent establishment of the Federal Govern-
13 ment.

14 (2) BOARD OF DIRECTORS.—The Corporation is
15 governed by a Board of Directors, as prescribed in
16 the Corporation’s articles of incorporation, consist-
17 ing of 15 members, of which—

18 (A) five members are representative of
19 public agencies representative of schools and
20 public libraries;

21 (B) five members are representative of
22 State government, including persons knowledge-
23 able about State finance, technology and edu-
24 cation; and

1 (C) five members are representative of the
2 private sector, with expertise in network tech-
3 nology, finance and management.

4 (3) CORPORATE PURPOSES.—The purposes of
5 the Corporation, as set forth in its articles of incor-
6 poration, are—

7 (A) to leverage resources and stimulate
8 private investment in education technology in-
9 frastructure;

10 (B) to designate State education tech-
11 nology agencies to receive loans, grants or other
12 forms of assistance from the Corporation;

13 (C) to establish criteria for encouraging
14 States to—

15 (i) create, maintain, utilize and up-
16 grade interactive high capacity networks
17 capable of providing audio, visual and data
18 communications for elementary schools,
19 secondary schools and public libraries;

20 (ii) distribute resources to assure eq-
21 uitable aid to all elementary schools and
22 secondary schools in the State and achieve
23 universal access to network technology;
24 and

1 (iii) upgrade the delivery and develop-
2 ment of learning through innovative tech-
3 nology-based instructional tools and appli-
4 cations;

5 (D) to provide loans, grants and other
6 forms of assistance to State education tech-
7 nology agencies, with due regard for providing
8 a fair balance among types of school districts
9 and public libraries assisted and the disparate
10 needs of such districts and libraries;

11 (E) to leverage resources to provide maxi-
12 mum aid to elementary schools, secondary
13 schools and public libraries; and

14 (F) to encourage the development of edu-
15 cation telecommunications and information
16 technologies through public-private ventures, by
17 serving as a clearinghouse for information on
18 new education technologies, and by providing
19 technical assistance, including assistance to
20 States, if needed, to establish State education
21 technology agencies.

22 (b) PURPOSE.—The purpose of this title is to recog-
23 nize the Corporation as a nonprofit corporation operating
24 under the laws of the District of Columbia, and to provide

1 authority for Federal departments and agencies to provide
2 assistance to the Corporation.

3 **SEC. 603. DEFINITIONS.**

4 For the purpose of this title—

5 (1) the term “Corporation” means the National
6 Education Technology Funding Corporation de-
7 scribed in section 602(a)(1);

8 (2) the terms “elementary school” and “second-
9 ary school” have the same meanings given such
10 terms in section 14101 of the Elementary and Sec-
11 ondary Education Act of 1965; and

12 (3) the term “public library” has the same
13 meaning given such term in section 3 of the Library
14 Services and Construction Act.

15 **SEC. 604. ASSISTANCE FOR EDUCATION TECHNOLOGY PUR-**
16 **POSES.**

17 (a) RECEIPT BY CORPORATION.—Notwithstanding
18 any other provision of law, in order to carry out the cor-
19 porate purposes described in section 602(a)(3), the Cor-
20 poration shall be eligible to receive discretionary grants,
21 contracts, gifts, contributions, or technical assistance from
22 any Federal department or agency, to the extent otherwise
23 permitted by law.

24 (b) AGREEMENT.—In order to receive any assistance
25 described in subsection (a) the Corporation shall enter into

1 an agreement with the Federal department or agency pro-
2 viding such assistance, under which the Corporation
3 agrees—

4 (1) to use such assistance to provide funding
5 and technical assistance only for activities which the
6 Board of Directors of the Corporation determines
7 are consistent with the corporate purposes described
8 in section 602(a)(3);

9 (2) to review the activities of State education
10 technology agencies and other entities receiving as-
11 sistance from the Corporation to assure that the cor-
12 porate purposes described in section 602(a)(3) are
13 carried out;

14 (3) that no part of the assets of the Corpora-
15 tion shall accrue to the benefit of any member of the
16 Board of Directors of the Corporation, any officer or
17 employee of the Corporation, or any other individual,
18 except as salary or reasonable compensation for
19 services;

20 (4) that the Board of Directors of the Corpora-
21 tion will adopt policies and procedures to prevent
22 conflicts of interest;

23 (5) to maintain a Board of Directors of the
24 Corporation consistent with section 602(a)(2);

1 (6) that the Corporation, and any entity receiv-
2 ing the assistance from the Corporation, are subject
3 to the appropriate oversight procedures of the Con-
4 gress; and

5 (7) to comply with—

6 (A) the audit requirements described in
7 section 605; and

8 (B) the reporting and testimony require-
9 ments described in section 606.

10 (c) CONSTRUCTION.—Nothing in this title shall be
11 construed to establish the Corporation as an agency or
12 independent establishment of the Federal Government, or
13 to establish the members of the Board of Directors of the
14 Corporation, or the officers and employees of the Corpora-
15 tion, as officers or employees of the Federal Government.

16 **SEC. 605. AUDITS**

17 (a) AUDITS BY INDEPENDENT CERTIFIED PUBLIC
18 ACCOUNTANTS.—

19 (1) IN GENERAL.—The Corporation’s financial
20 statements shall be audited annually in accordance
21 with generally accepted auditing standards by inde-
22 pendent certified public accountants who are mem-
23 bers of a nationally recognized accounting firm and
24 who are certified by a regulatory authority of a
25 State or other political subdivision of the United

1 States. The audits shall be conducted at the place or
2 places where the accounts of the Corporation are
3 normally kept. All books, accounts, financial records,
4 reports, files, and all other papers, things, or prop-
5 erty belonging to or in use by the Corporation and
6 necessary to facilitate the audit shall be made avail-
7 able to the person or persons conducting the audits,
8 and full facilities for verifying transactions with the
9 balances or securities held by depositories, fiscal
10 agents, and custodians shall be afforded to such per-
11 son or persons.

12 (2) REPORTING REQUIREMENTS.—The report
13 of each annual audit described in paragraph (1)
14 shall be included in the annual report required by
15 section 606(a).

16 (b) RECORDKEEPING REQUIREMENTS; AUDIT AND
17 EXAMINATION OF BOOKS.—

18 (1) RECORDKEEPING REQUIREMENTS.—The
19 Corporation shall ensure that each recipient of as-
20 sistance from the Corporation keeps—

21 (A) separate accounts with respect to such
22 assistance;

23 (B) such records as may be reasonably
24 necessary to fully disclose—

1 (i) the amount and the disposition by
2 such recipient of the proceeds of such as-
3 sistance;

4 (ii) the total cost of the project or un-
5 dertaking in connection with which such
6 assistance is given or used; and

7 (iii) the amount and nature of that
8 portion of the cost of the project or under-
9 taking supplied by other sources; and

10 (C) such other records as will facilitate an
11 effective audit.

12 (2) AUDIT AND EXAMINATION OF BOOKS.—The
13 Corporation shall ensure that the Corporation, or
14 any of the Corporation's duly authorized representa-
15 tives, shall have access for the purpose of audit and
16 examination to any books, documents, papers, and
17 records of any recipient of assistance from the Cor-
18 poration that are pertinent to such assistance. Rep-
19 resentatives of the Comptroller General shall also
20 have such access for such purpose.

21 **SEC. 606. ANNUAL REPORT; TESTIMONY TO THE CONGRESS.**

22 (a) ANNUAL REPORT.—Not later than April 30 of
23 each year, the Corporation shall publish an annual report
24 for the preceding fiscal year and submit that report to
25 the President and the Congress. The report shall include

1 a comprehensive and detailed evaluation of the Corpora-
2 tion's operations, activities, financial condition, and ac-
3 complishments under this title and may include such rec-
4 ommendations as the Corporation deems appropriate.

5 (b) TESTIMONY BEFORE CONGRESS.—The members
6 of the Board of Directors, and officers, of the Corporation
7 shall be available to testify before appropriate committees
8 of the Congress with respect to the report described in
9 subsection (a), the report of any audit made by the Comp-
10 troller General pursuant to this title, or any other matter
11 which any such committee may determine appropriate.

12 TITLE VII—MISCELLANEOUS PROVISIONS

13 **SEC. 701. SPECTRUM AUCTIONS.**

14 (a) FINDINGS.—The Congress finds that—

15 (1) the National Telecommunications and Infor-
16 mation Administration of the Department of Com-
17 merce recently submitted to the Congress a report
18 entitled “U.S. National Spectrum Requirements” as
19 required by section 113 of the National Tele-
20 communications and Information Administration Or-
21 ganization Act (47 U.S.C. 923);

22 (2) based on the best available information the
23 report concludes that an additional 179 megahertz
24 of spectrum will be needed within the next ten years
25 to meet the expected demand for land mobile and

1 mobile satellite radio services such as cellular tele-
2 phone service, paging services, personal communica-
3 tion services, and low earth orbiting satellite commu-
4 nications systems;

5 (3) a further 85 megahertz of additional spec-
6 trum, for a total of 264 megahertz, is needed if the
7 United States is to fully implement the Intelligent
8 Transportation System currently under development
9 by the Department of Transportation;

10 (4) as required by part B of the National Tele-
11 communications and Information Administration Or-
12 ganization Act (47 U.S.C. 921 et seq.) the Federal
13 Government will transfer 235 megahertz of spectrum
14 from exclusive government use to non-governmental
15 or mixed governmental and non-governmental use
16 between 1994 and 2004;

17 (5) the Spectrum Reallocation Final Report
18 submitted to Congress under section 113 of the Na-
19 tional Telecommunications and Information Admin-
20 istration Organization Act by the National Tele-
21 communications and Information Administration
22 states that, of the 235 megahertz of spectrum iden-
23 tified for reallocation from governmental to non-gov-
24 ernmental or mixed use—

1 (A) 50 megahertz has already been reallo-
2 cated for exclusive non-governmental use,

3 (B) 45 megahertz will be reallocated in
4 1995 for both exclusive non-governmental and
5 mixed governmental and non-governmental use,

6 (C) 25 megahertz will be reallocated in
7 1997 for exclusive non-governmental use,

8 (D) 70 megahertz will be reallocated in
9 1999 for both exclusive non-governmental and
10 mixed governmental and non-governmental use,
11 and

12 (E) the final 45 megahertz will be reallo-
13 cated for mixed governmental and non-govern-
14 mental use by 2004;

15 (6) the 165 megahertz of spectrum that are not
16 yet reallocated, combined with 80 megahertz that
17 the Federal Communications Commission is cur-
18 rently holding in reserve for emerging technologies,
19 are less than the best estimates of projected spec-
20 trum needs in the United States;

21 (7) the authority of the Federal Communica-
22 tions Commission to assign radio spectrum fre-
23 quencies using an auction process expires on Sep-
24 tember 30, 1998;

1 (8) a significant portion of the reallocated spec-
2 trum will not yet be assigned to non-governmental
3 users before that authority expires;

4 (9) the transfer of Federal governmental users
5 from certain valuable radio frequencies to other re-
6 served frequencies could be expedited if Federal gov-
7 ernmental users are permitted to accept reimburse-
8 ment for relocation costs from non-governmental
9 users; and

10 (10) non-governmental reimbursement of Fed-
11 eral governmental users relocation costs would allow
12 the market to determine the most efficient use of the
13 available spectrum.

14 (b) EXTENSION AND EXPANSION OF AUCTION AU-
15 THORITY.—Section 309(j) (47 U.S.C. 309(j)) is amend-
16 ed—

17 (1) by striking paragraph (1) and inserting in
18 lieu thereof the following:

19 “(1) GENERAL AUTHORITY.—If mutually exclu-
20 sive applications or requests are accepted for any
21 initial license or construction permit which will in-
22 volve a use of the electromagnetic spectrum, then
23 the Commission shall grant such license or permit to
24 a qualified applicant through a system of competitive
25 bidding that meets the requirements of this sub-

1 section. The competitive bidding authority granted
2 by this subsection shall not apply to licenses or con-
3 struction permits issued by the Commission for pub-
4 lic safety radio services or for licenses or construc-
5 tion permits for new terrestrial digital television
6 services assigned by the Commission to existing ter-
7 restrial broadcast licensees to replace their current
8 television licenses.”;

9 (2) by striking paragraph (2) and renumbering
10 paragraphs (3) through (13) as (2) through (12), re-
11 spectively; and

12 (3) by striking “1998” in paragraph (10), as
13 renumbered, and inserting in lieu thereof “2000”.

14 (c) REIMBURSEMENT OF FEDERAL RELOCATION
15 COSTS.—Section 113 of the National Telecommunications
16 and Information Administration Act (47 U.S.C. 923) is
17 amended by adding at the end the following new sub-
18 sections:

19 “(f) RELOCATION OF FEDERAL GOVERNMENT STA-
20 TIONS.—

21 “(1) IN GENERAL.—In order to expedite the ef-
22 ficient use of the electromagnetic spectrum and not-
23 withstanding section 3302(b) of title 31, United
24 States Code, any Federal entity which operates a
25 Federal Government station may accept reimburse-

1 ment from any person for the costs incurred by such
2 Federal entity for any modification, replacement, or
3 reissuance of equipment, facilities, operating manu-
4 als, regulations, or other expenses incurred by that
5 entity in relocating the operations of its Federal
6 Government station or stations from one or more
7 radio spectrum frequencies to any other frequency or
8 frequencies. Any such reimbursement shall be depos-
9 ited in the account of such Federal entity in the
10 Treasury of the United States. Funds deposited ac-
11 cording to this section shall be available, without ap-
12 propriation or fiscal year limitation, only for the op-
13 erations of the Federal entity for which such funds
14 were deposited under this section.

15 “(2) PROCESS FOR RELOCATION.—Any person
16 seeking to relocate a Federal Government station
17 that has been assigned a frequency within a band al-
18 located for mixed Federal and non-Federal use may
19 submit a petition for such relocation to NTIA. The
20 NTIA shall limit the Federal Government station’s
21 operating license to secondary status when the fol-
22 lowing requirements are met—

23 “(A) the person seeking relocation of the
24 Federal Government station has guaranteed re-
25 imbursement through money or in-kind pay-

1 ment of all relocation costs incurred by the
2 Federal entity, including all engineering, equip-
3 ment, site acquisition and construction, and
4 regulatory fee costs;

5 “(B) the person seeking relocation com-
6 pletes all activities necessary for implementing
7 the relocation, including construction of replace-
8 ment facilities (if necessary and appropriate)
9 and identifying and obtaining on the Federal
10 entity’s behalf new frequencies for use by the
11 relocated Federal Government station (where
12 such station is not relocating to spectrum re-
13 served exclusively for Federal use); and

14 “(C) any necessary replacement facilities,
15 equipment modifications, or other changes have
16 been implemented and tested to ensure that the
17 Federal Government station is able to success-
18 fully accomplish its purposes.

19 “(3) RIGHT TO RECLAIM.—If within one year
20 after the relocation the Federal Government station
21 demonstrates to the Commission that the new facili-
22 ties or spectrum are not comparable to the facilities
23 or spectrum from which the Federal Government
24 station was relocated, the person seeking such relo-
25 cation must take reasonable steps to remedy any de-

1 fects or reimburse the Federal entity for the costs
2 of returning the Federal Government station to the
3 spectrum from which such station was relocated.

4 “(g) FEDERAL ACTION TO EXPEDITE SPECTRUM
5 TRANSFER.—Any Federal Government station which op-
6 erates on electromagnetic spectrum that has been identi-
7 fied for reallocation for mixed Federal and non-Federal
8 use in the Spectrum Reallocation Final Report shall, to
9 the maximum extent practicable through the use of the
10 authority granted under subsection (f) and any other ap-
11 plicable provision of law, take action to relocate its spec-
12 trum use to other frequencies that are reserved for Fed-
13 eral use or to consolidate its spectrum use with other Fed-
14 eral Government stations in a manner that maximizes the
15 spectrum available for non-Federal use. Notwithstanding
16 the timetable contained in the Spectrum Reallocation
17 Final Report, the President shall seek to implement the
18 reallocation of the 1710 to 1755 megahertz frequency
19 band by January 1, 2000. Subsection (c)(4) of this section
20 shall not apply to the extent that a non-Federal user seeks
21 to relocate or relocates a Federal power agency under sub-
22 section (f).

23 “(h) DEFINITIONS.—For purposes of this section—

24 “(1) FEDERAL ENTITY.—The term ‘Federal en-
25 tity’ means any Department, agency, or other ele-

1 ment of the Federal Government that utilizes radio
2 frequency spectrum in the conduct of its authorized
3 activities, including a Federal power agency.

4 “(2) SPECTRUM REALLOCATION FINAL RE-
5 PORT.—The term ‘Spectrum Reallocation Final Re-
6 port’ means the report submitted by the Secretary to
7 the President and Congress in compliance with the
8 requirements of subsection (a).”.

9 (d) REALLOCATION OF ADDITIONAL SPECTRUM.—
10 The Secretary of Commerce shall, within 9 months after
11 the date of enactment of this Act, prepare and submit to
12 the President and the Congress a report and timetable rec-
13 ommending the reallocation of the two frequency bands
14 (3625–3650 megahertz and 5850–5925 megahertz) that
15 were discussed but not recommended for reallocation in
16 the Spectrum Reallocation Final Report under section
17 113(a) of the National Telecommunications and Informa-
18 tion Administration Organization Act. The Secretary shall
19 consult with the Federal Communications Commission
20 and other Federal agencies in the preparation of the re-
21 port, and shall provide notice and an opportunity for pub-
22 lic comment before submitting the report and timetable
23 required by this section.

24 (e) BROADCAST AUXILIARY SPECTRUM RELOCA-
25 TION.—

1 (1) ALLOCATION OF SPECTRUM FOR BROAD-
2 CAST AUXILIARY USES.—Within one year after the
3 date of enactment of this Act, the Commission shall
4 allocate the 4635–4685 megahertz band transferred
5 to the Commission under section 113(b) of the Na-
6 tional Telecommunications and Information Admin-
7 istration Organization Act (47 U.S.C. 923(b)) for
8 broadcast auxiliary uses.

9 (2) MANDATORY RELOCATION OF BROADCAST
10 AUXILIARY USES.—Within 7 years after the date of
11 enactment of this Act, all licensees of broadcast aux-
12 iliary spectrum in the 2025–2075 megahertz band
13 shall relocate into spectrum allocated by the Com-
14 mission under paragraph (1). The Commission shall
15 assign and grant licenses for use of the spectrum al-
16 located under paragraph (1)—

17 (A) in a manner sufficient to permit timely
18 completion of relocation; and

19 (B) without using a competitive bidding
20 process.

21 (3) ASSIGNING RECOVERED SPECTRUM.—With-
22 in 5 years after the date of enactment of this Act,
23 the Commission shall allocate the spectrum recov-
24 ered in the 2025–2075 megahertz band under para-
25 graph (2) for use by new licensees for commercial

1 mobile services or other similar services after the re-
2 location of broadcast auxiliary licensees, and shall
3 assign such licenses by competitive bidding.

4 **SEC. 702. RENEWED EFFORTS TO REGULATE VIOLENT PRO-**
5 **GRAMMING.**

6 (a) FINDINGS.—The Senate finds that:

7 (1) Violence is a pervasive and persistent fea-
8 ture of the entertainment industry. According to the
9 Carnegie Council on Adolescent Development, by the
10 age of 18, children will have been exposed to nearly
11 18,000 televised murders and 800 suicides.

12 (2) Violence on television is likely to have a se-
13 rious and harmful effect on the emotional develop-
14 ment of young children. The American Psychological
15 Association has reported that children who watch “a
16 large number of aggressive programs tend to hold
17 attitudes and values that favor the use of aggression
18 to solve conflicts”. The National Institute of Mental
19 Health has stated similarly that “violence on tele-
20 vision does lead to aggressive behavior by children
21 and teenagers”.

22 (3) The Senate recognizes that television vio-
23 lence is not the sole cause of violence in society.

24 (4) There is a broad recognition in the United
25 States Congress that the television industry has an

1 obligation to police the content of its own broadcasts
2 to children. That understanding was reflected in the
3 Television Violence Act of 1990, which was specifi-
4 cally designed to permit industry participants to
5 work together to create a self-monitoring system.

6 (5) After years of denying that television vio-
7 lence has any detrimental effect, the entertainment
8 industry has begun to address the problem of tele-
9 vision violence. In the spring of 1994, for example,
10 the network and cable industries announced the ap-
11 pointment of an independent monitoring group to
12 assess the amount of violence on television. These
13 reports are due out in the fall of 1995 and winter
14 of 1996, respectively.

15 (6) The Senate recognizes that self-regulation
16 by the private sector is generally preferable to direct
17 regulation by the Federal Government.

18 (b) SENSE OF THE SENATE.—It is the sense of the
19 Senate that the entertainment industry should do every-
20 thing possible to limit the amount of violent and aggres-
21 sive entertainment programming, particularly during the
22 hours when children are most likely to be watching.

1 **SEC. 703. PREVENTION OF UNFAIR BILLING PRACTICES**
2 **FOR INFORMATION OR SERVICES PROVIDED**
3 **OVER TOLL-FREE TELEPHONE CALLS.**

4 (a) FINDINGS.—Congress makes the following find-
5 ings:

6 (1) Reforms required by the Telephone Disclo-
7 sure and Dispute Resolution Act of 1992 have im-
8 proved the reputation of the pay-per-call industry
9 and resulted in regulations that have reduced the in-
10 cidence of misleading practices that are harmful to
11 the public interest.

12 (2) Among the successful reforms is a restric-
13 tion on charges being assessed for calls to 800 tele-
14 phone numbers or other telephone numbers adver-
15 tised or widely understood to be toll free.

16 (3) Nevertheless, certain interstate pay-per-call
17 businesses are taking advantage of an exception in
18 the restriction on charging for information conveyed
19 during a call to a “toll-free” number to continue to
20 engage in misleading practices. These practices are
21 not in compliance with the intent of Congress in
22 passing the Telephone Disclosure and Dispute Reso-
23 lution Act.

24 (4) It is necessary for Congress to clarify that
25 its intent is that charges for information provided
26 during a call to an 800 number or other number

1 widely advertised and understood to be toll free shall
2 not be assessed to the calling party unless the call-
3 ing party agrees to be billed according to the terms
4 of a written subscription agreement or by other ap-
5 propriate means.

6 (b) PREVENTION OF UNFAIR BILLING PRACTICES.—

7 (1) IN GENERAL.—Section 228(c) (47 U.S.C.
8 228(c)) is amended—

9 (A) by striking out subparagraph (C) of
10 paragraph (7) and inserting in lieu thereof the
11 following:

12 “(C) the calling party being charged for in-
13 formation conveyed during the call unless—

14 “(i) the calling party has a written
15 agreement (including an agreement trans-
16 mitted through electronic medium) that
17 meets the requirements of paragraph (8);
18 or

19 “(ii) the calling party is charged for
20 the information in accordance with para-
21 graph (9); or”; and

22 (B) by adding at the end the following new
23 paragraphs:

1 “(8) SUBSCRIPTION AGREEMENTS FOR BILLING
2 FOR INFORMATION PROVIDED VIA TOLL-FREE
3 CALLS.—

4 “(A) IN GENERAL.—For purposes of para-
5 graph (7)(C), a written subscription does not
6 meet the requirements of this paragraph unless
7 the agreement specifies the material terms and
8 conditions under which the information is of-
9 fered and includes—

10 “(i) the rate at which charges are as-
11 sessed for the information;

12 “(ii) the information provider’s name;

13 “(iii) the information provider’s busi-
14 ness address;

15 “(iv) the information provider’s regu-
16 lar business telephone number;

17 “(v) the information provider’s agree-
18 ment to notify the subscriber of all future
19 changes in the rates charged for the infor-
20 mation; and

21 “(vi) the subscriber’s choice of pay-
22 ment method, which may be by direct
23 remit, debit, prepaid account, phone bill or
24 credit or calling card.

1 “(B) BILLING ARRANGEMENTS.—If a sub-
2 scriber elects, pursuant to subparagraph
3 (A)(vi), to pay by means of a phone bill—

4 “(i) the agreement shall clearly ex-
5 plain that charges for the service will ap-
6 pear on the subscriber’s phone bill;

7 “(ii) the phone bill shall include, in
8 prominent type, the following disclaimer:

9 ‘Common carriers may not dis-
10 connect local or long distance tele-
11 phone service for failure to pay dis-
12 puted charges for information serv-
13 ices.’; and

14 “(iii) the phone bill shall clearly list
15 the 800 number dialed.

16 “(C) USE OF PINS TO PREVENT UNAU-
17 THORIZED USE.—A written agreement does not
18 meet the requirements of this paragraph unless
19 it requires the subscriber to use a personal
20 identification number to obtain access to the in-
21 formation provided, and includes instructions
22 on its use.

23 “(D) EXCEPTIONS.—Notwithstanding
24 paragraph (7)(C), a written agreement that

1 meets the requirements of this paragraph is not
2 required—

3 “(i) for calls utilizing telecommuni-
4 cations devices for the deaf;

5 “(ii) for services provided pursuant to
6 a tariff that has been approved or per-
7 mitted to take effect by the Commission or
8 a State commission; or

9 “(iii) for any purchase of goods or of
10 services that are not information services.

11 “(E) TERMINATION OF SERVICE.—On re-
12 ceipt by a common carrier of a complaint by
13 any person that an information provider is in
14 violation of the provisions of this section, a car-
15 rier shall—

16 “(i) promptly investigate the com-
17 plaint; and

18 “(ii) if the carrier reasonably deter-
19 mines that the complaint is valid, it may
20 terminate the provision of service to an in-
21 formation provider unless the provider sup-
22 plies evidence of a written agreement that
23 meets the requirements of this section.

24 “(F) TREATMENT OF REMEDIES.—The
25 remedies provided in this paragraph are in ad-

1 dition to any other remedies that are available
2 under title V of this Act.

3 “(9) CHARGES IN ABSENCE OF AGREEMENT.—
4 A calling party is charged for a call in accordance
5 with this paragraph if the provider of the informa-
6 tion conveyed during the call—

7 “(A) clearly states to the calling party the
8 total cost per minute of the information pro-
9 vided during the call and for any other informa-
10 tion or service provided by the provider to
11 which the calling party requests connection dur-
12 ing the call; and

13 “(B) receives from the calling party—

14 “(i) an agreement to accept the
15 charges for any information or services
16 provided by the provider during the call;
17 and

18 “(ii) a credit, calling, or charge card
19 number or verification of a prepaid account
20 to which such charges are to be billed.

21 “(10) DEFINITION.—As used in paragraphs (8)
22 and (9), the term ‘calling card’ means an identifying
23 number or code unique to the individual, that is is-
24 sued to the individual by a common carrier and en-
25 ables the individual to be charged by means of a

1 phone bill for charges incurred independent of where
2 the call originates.”

3 (2) REGULATIONS.—The Federal Communica-
4 tions Commission shall revise its regulations to com-
5 ply with the amendment made by paragraph (1) not
6 later than 180 days after the date of the enactment
7 of this Act.

8 (3) EFFECTIVE DATE.—The amendments made
9 by paragraph (1) shall take effect on the date of the
10 enactment of this Act.

11 (c) CLARIFICATION OF “PAY-PER-CALL SERVICES”
12 UNDER TELEPHONE DISCLOSURE AND DISPUTE RESO-
13 LUTION ACT.—Section 204(1) of the Telephone Disclo-
14 sure and Dispute Resolution Act (15 U.S.C. 5714(1)) is
15 amended to read as follows:

16 “(1) The term ‘pay-per-call services’ has the
17 meaning provided in section 228(j)(1) of the Com-
18 munications Act of 1934, except that the Commis-
19 sion by rule may, notwithstanding subparagraphs
20 (B) and (C) of such section, extend such definition
21 to other similar services providing audio information
22 or audio entertainment if the Commission deter-
23 mines that such services are susceptible to the unfair
24 and deceptive practices that are prohibited by the
25 rules prescribed pursuant to section 201(a).”.

1 **SEC. 704. DISCLOSURE OF CERTAIN RECORDS FOR INVES-**
2 **TIGATIONS OF TELEMARKETING FRAUD.**

3 Section 2703(c)(1)(B) of title 18, United States
4 Code, is amended—

5 (1) by striking out “or” at the end of clause
6 (ii);

7 (2) by striking out the period at the end of
8 clause (iii) and inserting in lieu thereof “; or”; and

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

10 “(iv) submits a formal written request for infor-
11 mation relevant to a legitimate law enforcement in-
12 vestigation of the governmental entity for the name,
13 address, and place of business of a subscriber or
14 customer of such provider, which subscriber or cus-
15 tomer is engaged in telemarketing (as such term is
16 in section 2325 of this title).”.

17 **SEC. 705. TELECOMMUTING PUBLIC INFORMATION PRO-**
18 **GRAM.**

19 (a) FINDINGS.—Congress makes the following find-
20 ings—

21 (1) Telecommuting is the practice of allowing
22 people to work either at home or in nearby centers
23 located closer to home during their normal working
24 hours, substituting telecommunications services, ei-
25 ther partially or completely, for transportation to a
26 more traditional workplace;

1 (2) Telecommuting is now practiced by an esti-
2 mated two to seven million Americans, including in-
3 dividuals with impaired mobility, who are taking ad-
4 vantage of computer and telecommunications ad-
5 vances in recent years;

6 (3) Telecommuting has the potential to dra-
7 matically reduce fuel consumption, mobile source air
8 pollution, vehicle miles traveled, and time spent com-
9 muting, thus contributing to an improvement in the
10 quality of life for millions of Americans; and

11 (4) It is in the public interest for the Federal
12 Government to collect and disseminate information
13 encouraging the increased use of telecommuting and
14 identifying the potential benefits and costs of
15 telecommuting.

16 (b) TELECOMMUTING RESEARCH PROGRAMS AND
17 PUBLIC INFORMATION DISSEMINATION.—The Secretary
18 of Transportation, in consultation with the Secretary of
19 Labor and the Administrator of the Environmental Pro-
20 tection Agency, shall, within three months of the date of
21 enactment of this Act, carry out research to identify suc-
22 cessful telecommuting programs in the public and private
23 sectors and provide for the dissemination to the public of
24 information regarding—

1 (1) the establishment of successful
2 telecommuting programs; and

3 (2) the benefits and costs of telecommuting.

4 (c) REPORT.—Within one year of the date of enact-
5 ment of this Act, the Secretary of Transportation shall
6 report to Congress its findings, conclusions, and rec-
7 ommendations regarding telecommuting developed under
8 this section.

9 **SEC. 706. AUTHORITY TO ACQUIRE CABLE SYSTEMS.**

10 (a) IN GENERAL.—Notwithstanding the provisions of
11 section 613(b)(6) of the Communications Act of 1934, as
12 added by section 203(a) of this Act, a local exchange car-
13 rier (or any affiliate of such carrier owned by, operated
14 by, controlled by, or under common control with such car-
15 rier) may purchase or otherwise acquire more than a 10
16 percent financial interest, or any management interest, or
17 enter into a joint venture or partnership with any cable
18 system described in subsection (b) within the local ex-
19 change carrier's telephone service area.

20 (b) COVERED CABLE SYSTEMS.—Subsection (a) ap-
21 plies to any cable system serving no more than 20,000
22 cable subscribers of which no more than 12,000 of those
23 subscribers live within an urbanized area, as defined by
24 the Bureau of the Census.

1 (c) DEFINITION.—For purposes of this section, the
2 term “local exchange carrier” has the meaning given such
3 term in section 3 (kk) of the Communications Act of 1934,
4 as added by section 8(b) of this Act.

Passed the Senate June 15 (legislative day, June 5),
1995.

Attest:

Secretary.

S 652 ES——2

S 652 ES——3

S 652 ES——4

S 652 ES——5

S 652 ES——6

S 652 ES——7

S 652 ES——8

S 652 ES——9

S 652 ES——10

S 652 ES——11

S 652 ES——12

S 652 ES——13

S 652 ES——14

S 652 ES——15

104TH CONGRESS
1ST SESSION

S. 652

AN ACT

To provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes.