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Purposes of chapter; Federal Communications Commission created</b></p> <p>For the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property through the use of wire and radio communications, and for the purpose of securing a more effective execution of this policy by centralizing authority heretofore granted by law to several agencies and by granting additional authority with respect to interstate and foreign commerce in wire and radio communication, there is created a commission to be known as the "Federal Communications Commission", which shall be constituted as</p> |
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hereinafter provided, and which shall execute and enforce the provisions of this chapter.

(June 19, 1934, ch. 652, title I, § 1, 48 Stat. 1064; May 20, 1937, ch. 229, § 1, 50 Stat. 189; Pub. L. 104-104, title I, § 104, Feb. 8, 1996, 110 Stat. 86.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

#### AMENDMENTS

1996—Pub. L. 104-104 inserted “, without discrimination on the basis of race, color, religion, national origin, or sex,” after “to all the people of the United States”.

1937—Act May 20, 1937, inserted “for the purpose of promoting safety of life and property through the use of wire and radio communication”.

#### EXTENSION OF INTERNET TAX FREEDOM ACT

Pub. L. 114-113, div. E, title VI, § 633, Dec. 18, 2015, 129 Stat. 2471, provided that: “Sections 1101(a) and 1104(a)(2)(A) of the Internet Tax Freedom Act (title XI of division C of Public Law 105-277; 47 U.S.C. 151 note) shall be applied by substituting ‘October 1, 2016’ for ‘October 1, 2015’.”

#### MORATORIUM ON INTERNET TAXES

Pub. L. 105-277, div. C, title XI, Oct. 21, 1998, 112 Stat. 2681-719, as amended by Pub. L. 107-75, § 2, Nov. 28, 2001, 115 Stat. 703; Pub. L. 108-435, §§ 2-6A, Dec. 3, 2004, 118 Stat. 2615-2618; Pub. L. 110-108, §§ 2-6, Oct. 31, 2007, 121 Stat. 1024-1026; Pub. L. 113-235, div. E, title VI, § 624, Dec. 16, 2014, 128 Stat. 2377; Pub. L. 114-125, title IX, § 922, Feb. 24, 2016, 130 Stat. 281, provided that:

##### “SEC. 1100. SHORT TITLE.

“This title may be cited as the ‘Internet Tax Freedom Act’.

##### “SEC. 1101. MORATORIUM.

“(a) MORATORIUM.—No State or political subdivision thereof may impose any of the following taxes:

“(1) Taxes on Internet access.

“(2) Multiple or discriminatory taxes on electronic commerce.

“(b) PRESERVATION OF STATE AND LOCAL TAXING AUTHORITY.—Except as provided in this section, nothing in this title shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or superseding of, any State or local law pertaining to taxation that is otherwise permissible by or under the Constitution of the United States or other Federal law and in effect on the date of enactment of this Act [Oct. 21, 1998].

“(c) LIABILITIES AND PENDING CASES.—Nothing in this title affects liability for taxes accrued and enforced before the date of enactment of this Act, nor does this title affect ongoing litigation relating to such taxes.

##### “(d) EXCEPTION TO MORATORIUM.—

“(1) IN GENERAL.—Subsection (a) shall also not apply in the case of any person or entity who knowingly and with knowledge of the character of the material, in interstate or foreign commerce by means of the World Wide Web, makes any communication for commercial purposes that is available to any minor and that includes any material that is harmful to minors unless such person or entity has restricted access by minors to material that is harmful to minors—

“(A) by requiring use of a credit card, debit account, adult access code, or adult personal identification number;

“(B) by accepting a digital certificate that verifies age; or

“(C) by any other reasonable measures that are feasible under available technology.

“(2) SCOPE OF EXCEPTION.—For purposes of paragraph (1), a person shall not be considered to [be] making a communication for commercial purposes of material to the extent that the person is—

“(A) a telecommunications carrier engaged in the provision of a telecommunications service;

“(B) a person engaged in the business of providing an Internet access service;

“(C) a person engaged in the business of providing an Internet information location tool; or

“(D) similarly engaged in the transmission, storage, retrieval, hosting, formatting, or translation (or any combination thereof) of a communication made by another person, without selection or alteration of the communication.

“(3) DEFINITIONS.—In this subsection:

“(A) BY MEANS OF THE WORLD WIDE WEB.—The term ‘by means of the World Wide Web’ means by placement of material in a computer server-based file archive so that it is publicly accessible, over the Internet, using hypertext transfer protocol, file transfer protocol, or other similar protocols.

“(B) COMMERCIAL PURPOSES; ENGAGED IN THE BUSINESS.—

“(i) COMMERCIAL PURPOSES.—A person shall be considered to make a communication for commercial purposes only if such person is engaged in the business of making such communications.

“(ii) ENGAGED IN THE BUSINESS.—The term ‘engaged in the business’ means that the person who makes a communication, or offers to make a communication, by means of the World Wide Web, that includes any material that is harmful to minors, devotes time, attention, or labor to such activities, as a regular course of such person’s trade or business, with the objective of earning a profit as a result of such activities (although it is not necessary that the person make a profit or that the making or offering to make such communications be the person’s sole or principal business or source of income). A person may be considered to be engaged in the business of making, by means of the World Wide Web, communications for commercial purposes that include material that is harmful to minors, only if the person knowingly causes the material that is harmful to minors to be posted on the World Wide Web or knowingly solicits such material to be posted on the World Wide Web.

“(C) INTERNET.—The term ‘Internet’ means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

“(D) INTERNET ACCESS SERVICE.—The term ‘Internet access service’ means a service that enables users to access content, information, electronic mail, or other services offered over the Internet and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. The term ‘Internet access service’ does not include telecommunications services, except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.

“(E) INTERNET INFORMATION LOCATION TOOL.—The term ‘Internet information location tool’ means a service that refers or links users to an online location on the World Wide Web. Such term includes directories, indices, references, pointers, and hypertext links.

“(F) MATERIAL THAT IS HARMFUL TO MINORS.—The term ‘material that is harmful to minors’ means any communication, picture, image, graphic image

file, article, recording, writing, or other matter of any kind that is obscene or that—

“(i) the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, the prurient interest;

“(ii) depicts, describes, or represents, in a manner patently offensive with respect to minors, an actual or simulated sexual act or sexual contact, an actual or simulated normal or perverted sexual act, or a lewd exhibition of the genitals or post-pubescent female breast; and

“(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

“(G) MINOR.—The term ‘minor’ means any person under 17 years of age.

“(H) TELECOMMUNICATIONS CARRIER; TELECOMMUNICATIONS SERVICE.—The terms ‘telecommunications carrier’ and ‘telecommunications service’ have the meanings given such terms in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

“(e) ADDITIONAL EXCEPTION TO MORATORIUM.—

“(1) IN GENERAL.—Subsection (a) shall also not apply with respect to an Internet access provider, unless, at the time of entering into an agreement with a customer for the provision of Internet access services, such provider offers such customer (either for a fee or at no charge) screening software that is designed to permit the customer to limit access to material on the Internet that is harmful to minors.

“(2) DEFINITIONS.—In this subsection:

“(A) INTERNET ACCESS PROVIDER.—The term ‘Internet access provider’ means a person engaged in the business of providing a computer and communications facility through which a customer may obtain access to the Internet, but does not include a common carrier to the extent that it provides only telecommunications services.

“(B) INTERNET ACCESS SERVICES.—The term ‘Internet access services’ means the provision of computer and communications services through which a customer using a computer and a modem or other communications device may obtain access to the Internet, but does not include telecommunications services provided by a common carrier.

“(C) SCREENING SOFTWARE.—The term ‘screening software’ means software that is designed to permit a person to limit access to material on the Internet that is harmful to minors.

“(3) APPLICABILITY.—Paragraph (1) shall apply to agreements for the provision of Internet access services entered into on or after the date that is 6 months after the date of enactment of this Act [Oct. 21, 1998].

“SEC. 1102. ADVISORY COMMISSION ON ELECTRONIC COMMERCE.

“(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the Advisory Commission on Electronic Commerce (in this title referred to as the ‘Commission’). The Commission shall—

“(1) be composed of 19 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among themselves; and

“(2) conduct its business in accordance with the provisions of this title.

“(b) MEMBERSHIP.—

“(1) IN GENERAL.—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

“(A) 3 representatives from the Federal Government, comprised of the Secretary of Commerce, the Secretary of the Treasury, and the United States Trade Representative (or their respective delegates).

“(B) 8 representatives from State and local governments (one such representative shall be from a State or local government that does not impose a sales tax and one representative shall be from a State that does not impose an income tax).

“(C) 8 representatives of the electronic commerce industry (including small business), telecommunications carriers, local retail businesses, and consumer groups, comprised of—

“(i) 5 individuals appointed by the Majority Leader of the Senate;

“(ii) 3 individuals appointed by the Minority Leader of the Senate;

“(iii) 5 individuals appointed by the Speaker of the House of Representatives; and

“(iv) 3 individuals appointed by the Minority Leader of the House of Representatives.

“(2) APPOINTMENTS.—Appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act [Oct. 21, 1998]. The chairperson shall be selected not later than 60 days after the date of the enactment of this Act.

“(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

“(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

“(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

“(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act [Oct. 21, 1998].

“(f) RULES OF THE COMMISSION.—

“(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

“(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

“(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

“(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

“(g) DUTIES OF THE COMMISSION.—

“(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable intrastate, interstate or international sales activities.

“(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

“(A) an examination of—

“(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

“(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

“(B) an examination of the collection and administration of consumption taxes on electronic commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

“(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986 [26 U.S.C. 4251];

“(D) an examination of model State legislation that—

“(i) would provide uniform definitions of categories of property, goods, service, or information subject to or exempt from sales and use taxes; and

“(ii) would ensure that Internet access services, online services, and communications and transactions using the Internet, Internet access service, or online services would be treated in a tax and technologically neutral manner relative to other forms of remote sales;

“(E) an examination of the effects of taxation, including the absence of taxation, on all interstate sales transactions, including transactions using the Internet, on retail businesses and on State and local governments, which examination may include a review of the efforts of State and local governments to collect sales and use taxes owed on in-State purchases from out-of-State sellers; and

“(F) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

“(3) EFFECT ON THE COMMUNICATIONS ACT OF 1934.—Nothing in this section shall include an examination of any fees or charges imposed by the Federal Communications Commission or States related to—

“(A) obligations under the Communications Act of 1934 (47 U.S.C. 151 et seq.); or

“(B) the implementation of the Telecommunications Act of 1996 [Pub. L. 104-104, see Short Title of 1996 Amendment note set out under section 609 of this title] (or of amendments made by that Act).

“(h) NATIONAL TAX ASSOCIATION COMMUNICATIONS AND ELECTRONIC COMMERCE TAX PROJECT.—The Commission shall, to the extent possible, ensure that its work does not undermine the efforts of the National Tax Association Communications and Electronic Commerce Tax Project.

“SEC. 1103. REPORT.

“Not later than 18 months after the date of the enactment of this Act [Oct. 21, 1998], the Commission shall transmit to Congress for its consideration a report reflecting the results, including such legislative recommendations as required to address the findings of the Commission’s study under this title. Any recommendation agreed to by the Commission shall be tax and technologically neutral and apply to all forms of remote commerce. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

“SEC. 1104. GRANDFATHERING OF STATES THAT TAX INTERNET ACCESS.

“(a) PRE-OCTOBER 1998 TAXES.—

“(1) IN GENERAL.—Section 1101(a) does not apply to a tax on Internet access that was generally imposed and actually enforced prior to October 1, 1998, if, before that date—

“(A) the tax was authorized by statute; and

“(B) either—

“(i) a provider of Internet access services had a reasonable opportunity to know, by virtue of a rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; or

“(ii) a State or political subdivision thereof generally collected such tax on charges for Internet access.

“(2) TERMINATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), this subsection shall not apply after June 30, 2020.

“(B) STATE TELECOMMUNICATIONS SERVICE TAX.—

“(i) DATE FOR TERMINATION.—This subsection shall not apply after November 1, 2006, with respect to a State telecommunications service tax described in clause (ii).

“(ii) DESCRIPTION OF TAX.—A State telecommunications service tax referred to in subclause (i) is a State tax—

“(I) enacted by State law on or after October 1, 1991, and imposing a tax on telecommunications service; and

“(II) applied to Internet access through administrative code or regulation issued on or after December 1, 2002.

“(3) EXCEPTION.—Paragraphs (1) and (2) shall not apply to any State that has, more than 24 months prior to the date of enactment of this paragraph [Oct. 31, 2007], enacted legislation to repeal the State’s taxes on Internet access or issued a rule or other proclamation made by the appropriate agency of the State that such State agency has decided to no longer apply such tax to Internet access.

“(b) PRE-NOVEMBER 2003 TAXES.—

“(1) IN GENERAL.—Section 1101(a) does not apply to a tax on Internet access that was generally imposed and actually enforced as of November 1, 2003, if, as of that date, the tax was authorized by statute and—

“(A) a provider of Internet access services had a reasonable opportunity to know by virtue of a public rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; and

“(B) a State or political subdivision thereof generally collected such tax on charges for Internet access.

“(2) TERMINATION.—This subsection shall not apply after November 1, 2005.

“(c) APPLICATION OF DEFINITION.—

“(1) IN GENERAL.—Effective as of November 1, 2003—

“(A) for purposes of subsection (a), the term ‘Internet access’ shall have the meaning given such term by section 1104(5) of this Act, as enacted on October 21, 1998; and

“(B) for purposes of subsection (b), the term ‘Internet access’ shall have the meaning given such term by section 1104(5) of this Act as enacted on October 21, 1998, and amended by section 2(c) of the Internet Tax Nondiscrimination Act (Public Law 108-435).

“(2) EXCEPTIONS.—Paragraph (1) shall not apply until June 30, 2008, to a tax on Internet access that is—

“(A) generally imposed and actually enforced on telecommunications service purchased, used, or sold by a provider of Internet access, but only if the appropriate administrative agency of a State or political subdivision thereof issued a public ruling prior to July 1, 2007, that applied such tax to such service in a manner that is inconsistent with paragraph (1); or

“(B) the subject of litigation instituted in a judicial court of competent jurisdiction prior to July 1, 2007, in which a State or political subdivision is seeking to enforce, in a manner that is inconsistent with paragraph (1), such tax on telecommunications service purchased, used, or sold by a provider of Internet access.

“(3) NO INFERENCE.—No inference of legislative construction shall be drawn from this subsection or the amendments to section 1105(5) made by the Internet Tax Freedom Act Amendments Act of 2007 [Pub. L. 110-108] for any period prior to June 30, 2008, with respect to any tax subject to the exceptions described in subparagraphs (A) and (B) of paragraph (2).

“SEC. 1105. DEFINITIONS.

“For the purposes of this title:

“(1) BIT TAX.—The term ‘bit tax’ means any tax on electronic commerce expressly imposed on or meas-

ured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications.

“(2) DISCRIMINATORY TAX.—The term ‘discriminatory tax’ means—

“(A) any tax imposed by a State or political subdivision thereof on electronic commerce that—

“(i) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means;

“(ii) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period;

“(iii) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving similar property, goods, services, or information accomplished through other means;

“(iv) establishes a classification of Internet access service providers or online service providers for purposes of establishing a higher tax rate to be imposed on such providers than the tax rate generally applied to providers of similar information services delivered through other means; or

“(B) any tax imposed by a State or political subdivision thereof, if—

“(i) the sole ability to access a site on a remote seller’s out-of-State computer server is considered a factor in determining a remote seller’s tax collection obligation; or

“(ii) a provider of Internet access service or online services is deemed to be the agent of a remote seller for determining tax collection obligations solely as a result of—

“(I) the display of a remote seller’s information or content on the out-of-State computer server of a provider of Internet access service or online services; or

“(II) the processing of orders through the out-of-State computer server of a provider of Internet access service or online services.

“(3) ELECTRONIC COMMERCE.—The term ‘electronic commerce’ means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

“(4) INTERNET.—The term ‘Internet’ means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected worldwide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

“(5) INTERNET ACCESS.—The term ‘Internet access’—

“(A) means a service that enables users to connect to the Internet to access content, information, or other services offered over the Internet;

“(B) includes the purchase, use or sale of telecommunications by a provider of a service described in subparagraph (A) to the extent such telecommunications are purchased, used or sold—

“(i) to provide such service; or

“(ii) to otherwise enable users to access content, information or other services offered over the Internet;

“(C) includes services that are incidental to the provision of the service described in subparagraph (A) when furnished to users as part of such service,

such as a home page, electronic mail and instant messaging (including voice- and video-capable electronic mail and instant messaging), video clips, and personal electronic storage capacity;

“(D) does not include voice, audio or video programming, or other products and services (except services described in subparagraph (A), (B), (C), or (E)) that utilize Internet protocol or any successor protocol and for which there is a charge, regardless of whether such charge is separately stated or aggregated with the charge for services described in subparagraph (A), (B), (C), or (E); and

“(E) includes a homepage, electronic mail and instant messaging (including voice- and video-capable electronic mail and instant messaging), video clips, and personal electronic storage capacity, that are provided independently or not packaged with Internet access.

“(6) MULTIPLE TAX.—

“(A) IN GENERAL.—The term ‘multiple tax’ means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

“(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

“(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term ‘sales or use tax’ means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

“(7) STATE.—The term ‘State’ means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

“(8) TAX.—

“(A) IN GENERAL.—The term ‘tax’ means—

“(i) any charge imposed by any governmental entity for the purpose of generating revenues for governmental purposes, and is not a fee imposed for a specific privilege, service, or benefit conferred; or

“(ii) the imposition on a seller of an obligation to collect and to remit to a governmental entity any sales or use tax imposed on a buyer by a governmental entity.

“(B) EXCEPTION.—Such term does not include any franchise fee or similar fee imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573), or any other fee related to obligations or telecommunications carriers under the Communications Act of 1934 (47 U.S.C. 151 et seq.).

“(9) TELECOMMUNICATIONS.—The term ‘telecommunications’ means ‘telecommunications’ as such term is defined in section 3(43) of the Communications Act of 1934 (47 U.S.C. 153(43) [now 153(50)]) and ‘telecommunications service’ as such term is defined in section 3(46) of such Act (47 U.S.C. 153(46) [now 153(53)]), and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986 (26 U.S.C. 4251)).

“(10) TAX ON INTERNET ACCESS.—

“(A) IN GENERAL.—The term ‘tax on Internet access’ means a tax on Internet access, regardless of whether such tax is imposed on a provider of Internet access or a buyer of Internet access and regardless of the terminology used to describe the tax.

“(B) GENERAL EXCEPTION.—The term ‘tax on Internet access’ does not include a tax levied upon

or measured by net income, capital stock, net worth, or property value.

“(C) SPECIFIC EXCEPTION.—

“(i) SPECIFIED TAXES.—Effective November 1, 2007, the term ‘tax on Internet access’ also does not include a State tax expressly levied on commercial activity, modified gross receipts, taxable margin, or gross income of the business, by a State law specifically using one of the foregoing terms, that—

“(I) was enacted after June 20, 2005, and before November 1, 2007 (or, in the case of a State business and occupation tax, was enacted after January 1, 1932, and before January 1, 1936);

“(II) replaced, in whole or in part, a modified value-added tax or a tax levied upon or measured by net income, capital stock, or net worth (or, is a State business and occupation tax that was enacted after January 1, 1932 and before January 1, 1936);

“(III) is imposed on a broad range of business activity; and

“(IV) is not discriminatory in its application to providers of communication services, Internet access, or telecommunications.

“(ii) MODIFICATIONS.—Nothing in this subparagraph shall be construed as a limitation on a State’s ability to make modifications to a tax covered by clause (i) of this subparagraph after November 1, 2007, as long as the modifications do not substantially narrow the range of business activities on which the tax is imposed or otherwise disqualify the tax under clause (i).

“(iii) NO INFERENCE.—No inference of legislative construction shall be drawn from this subparagraph regarding the application of subparagraph (A) or (B) to any tax described in clause (i) for periods prior to November 1, 2007.

“SEC. 1106. ACCOUNTING RULE.

“(a) IN GENERAL.—If charges for Internet access are aggregated with and not separately stated from charges for telecommunications or other charges that are subject to taxation, then the charges for Internet access may be subject to taxation unless the Internet access provider can reasonably identify the charges for Internet access from its books and records kept in the regular course of business.

“(b) DEFINITIONS.—In this section:

“(1) CHARGES FOR INTERNET ACCESS.—The term ‘charges for Internet access’ means all charges for Internet access as defined in section 1105(5).

“(2) CHARGES FOR TELECOMMUNICATIONS.—The term ‘charges for telecommunications’ means all charges for telecommunications, except to the extent such telecommunications are purchased, used, or sold by a provider of Internet access to provide Internet access or to otherwise enable users to access content, information or other services offered over the Internet.

“SEC. 1107. EFFECT ON OTHER LAWS.

“(a) UNIVERSAL SERVICE.—Nothing in this Act [probably means “this title”] shall prevent the imposition or collection of any fees or charges used to preserve and advance Federal universal service or similar State programs—

“(1) authorized by section 254 of the Communications Act of 1934 (47 U.S.C. 254); or

“(2) in effect on February 8, 1996.

“(b) 911 AND E-911 SERVICES.—Nothing in this Act [probably means “this title”] shall prevent the imposition or collection, on a service used for access to 911 or E-911 services, of any fee or charge specifically designated or presented as dedicated by a State or political subdivision thereof for the support of 911 or E-911 services if no portion of the revenue derived from such fee or charge is obligated or expended for any purpose other than support of 911 or E-911 services.

“(c) NON-TAX REGULATORY PROCEEDINGS.—Nothing in this Act [probably means “this title”] shall be construed to affect any Federal or State regulatory proceeding that is not related to taxation.

“[SEC. 1108. Repealed. Pub. L. 110-108, §5(b), Oct. 31, 2007, 121 Stat. 1026]

“SEC. 1109. EXCEPTION FOR TEXAS MUNICIPAL ACCESS LINE FEE.

“Nothing in this Act [probably means “this title”] shall prohibit Texas or a political subdivision thereof from imposing or collecting the Texas municipal access line fee pursuant to Texas Local Govt. Code Ann. ch. 283 (Vernon 2005) and the definition of access line as determined by the Public Utility Commission of Texas in its ‘Order Adopting Amendments to Section 26.465 As Approved At The February 13, 2003 Public Hearing’, issued March 5, 2003, in Project No. 26412.”

[Pub. L. 110-108, §7, Oct. 31, 2007, 121 Stat. 1027, provided that: “This Act [enacting provisions set out as a note under section 609 of this title and amending title XI of div. C of Pub. L. 105-277, set out above], and the amendments made by this Act, shall take effect on November 1, 2007, and shall apply with respect to taxes in effect as of such date or thereafter enacted, except as provided in section 1104 of the Internet Tax Freedom Act [title XI of div. C of Pub. L. 105-277] (47 U.S.C. 151 note).”]

[Pub. L. 108-435, §8, Dec. 3, 2004, 118 Stat. 2619, provided that: “The amendments made by this Act [amending title XI of div. C of Pub. L. 105-277, set out above] take effect on November 1, 2003.”]

STYLISTIC CONSISTENCY

Pub. L. 104-104, title I, §101(c), Feb. 8, 1996, 110 Stat. 79, provided that: “The Act [Communications Act of 1934 (47 U.S.C. 151 et seq.)] is amended so that—

“(1) the designation and heading of each title of the Act shall be in the form and typeface of the designation and heading of this title of this Act [110 Stat. 61]; and

“(2) the designation and heading of each part of each title of the Act shall be in the form and typeface of the designation and heading of part I of title II of the Act [110 Stat. 61], as amended by subsection (a).”

STUDY OF TELECOMMUNICATIONS AND INFORMATION GOALS

Pub. L. 97-259, title II, §202, Sept. 13, 1982, 96 Stat. 1099, provided that:

“(a) The National Telecommunications and Information Administration shall conduct a comprehensive study of the long-range international telecommunications and information goals of the United States, the specific international telecommunications and information policies necessary to promote those goals and the strategies that will ensure that the United States achieves them. The Administration shall further conduct a review of the structures, procedures, and mechanisms which are utilized by the United States to develop international telecommunications and information policy.

“(b) In any study or review conducted pursuant to this section, the National Telecommunications and Information Administration shall not make public information regarding usage or traffic patterns which would damage United States commercial interests. Any such study or review shall be limited to international telecommunications policies or to domestic telecommunications issues which *directly* affect such policies.”

COMMISSION ON GOVERNMENTAL USE OF INTERNATIONAL TELECOMMUNICATIONS

Act July 29, 1954, ch. 647, 68 Stat. 587, established the Commission on Governmental Use of International Telecommunications to examine, study and report on the objectives, operations, and effectiveness of information programs with respect to the prompt development of techniques, methods, and programs for greatly expanded and far more effective operations in this vital area of foreign policy through the use of foreign telecommunications. The Commission was required to make a report of its findings and recommendations on

or before Dec. 31, 1954, and the Commission ceased to exist 90 days after submission of its report to the Congress.

COMMUNICATION PRIVILEGES TO PARTICIPANTS IN  
WORLD TELECOMMUNICATION CONFERENCES

Act May 13, 1947, ch. 51, 61 Stat. 83, provided that nothing in this chapter, or in any other provision of law should be construed to prohibit United States communication common carriers from rendering free communication services to official participants in the world telecommunications conferences which were held in the United States in 1947.

EXECUTIVE ORDER NO. 10460

Ex. Ord. No. 10460, eff. June 18, 1953, 18 F.R. 3513, as amended by Ex. Ord. No. 10773, eff. July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, eff. Sept. 8, 1958, 23 F.R. 6971, which related to the performance of telecommunication functions by Director of the Office of Civil and Defense Mobilization, was revoked by section 4 of Ex. Ord. No. 10995, eff. Feb. 16, 1962, 27 F.R. 1519.

**§ 152. Application of chapter**

(a) The provisions of this chapter shall apply to all interstate and foreign communication by wire or radio and all interstate and foreign transmission of energy by radio, which originates and/or is received within the United States, and to all persons engaged within the United States in such communication or such transmission of energy by radio, and to the licensing and regulating of all radio stations as hereinafter provided; but it shall not apply to persons engaged in wire or radio communication or transmission in the Canal Zone, or to wire or radio communication or transmission wholly within the Canal Zone. The provisions of this chapter shall apply with respect to cable service, to all persons engaged within the United States in providing such service, and to the facilities of cable operators which relate to such service, as provided in subchapter V-A.

(b) Except as provided in sections 223 through 227 of this title, inclusive, and section 332 of this title, and subject to the provisions of section 301 of this title and subchapter V-A, nothing in this chapter shall be construed to apply or to give the Commission jurisdiction with respect to (1) charges, classifications, practices, services, facilities, or regulations for or in connection with intrastate communication service by wire or radio of any carrier, or (2) any carrier engaged in interstate or foreign communication solely through physical connection with the facilities of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with such carrier, or (3) any carrier engaged in interstate or foreign communication solely through connection by radio, or by wire and radio, with facilities, located in an adjoining State or in Canada or Mexico (where they adjoin the State in which the carrier is doing business), of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with such carrier, or (4) any carrier to which clause (2) or clause (3) of this subsection would be applicable except for furnishing interstate mobile radio communication service or radio communication service to mobile stations on land vehicles in Canada or Mexico; except that sections 201 to 205 of this title shall, except as

otherwise provided therein, apply to carriers described in clauses (2), (3), and (4) of this subsection.

(June 19, 1934, ch. 652, title I, § 2, 48 Stat. 1064; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; Apr. 27, 1954, ch. 175, § 1, 68 Stat. 63; Pub. L. 95-234, § 5, Feb. 21, 1978, 92 Stat. 35; Pub. L. 98-549, § 3(a), Oct. 30, 1984, 98 Stat. 2801; Pub. L. 101-166, title V, § 521(2), Nov. 21, 1989, 103 Stat. 1193; Pub. L. 101-336, title IV, § 401(b)(1), July 26, 1990, 104 Stat. 369; Pub. L. 102-243, § 3(b), Dec. 20, 1991, 105 Stat. 2401; Pub. L. 103-66, title VI, § 6002(b)(2)(B)(i), Aug. 10, 1993, 107 Stat. 396.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

For definition of Canal Zone, referred to in subsec. (a), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Words "the Philippine Islands or" were omitted from this section on authority of Proc. No. 2695, issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse, which recognized the independence of the Philippine Islands as of July 4, 1946. Proc. No. 2695 is set out under section 1394 of Title 22.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103-66 inserted "and section 332 of this title," after "inclusive,".

1991—Subsec. (b). Pub. L. 102-243 substituted "Except as provided in sections 223 through 227 of this title, inclusive," for "Except as provided in section 223 or 224 of this title" .

1990—Subsec. (b). Pub. L. 101-336, which directed substitution of "sections 224 and 225" for "section 224", could not be executed because of the intervening amendment by Pub. L. 101-166 which substituted "section 223 or 224" for "section 224". See 1989 Amendment note below.

1989—Subsec. (b). Pub. L. 101-166 substituted "section 223 or 224" for "section 224" .

1984—Subsec. (a). Pub. L. 98-549, § 3(a)(1), inserted provision making this chapter applicable with respect to cable service, to all persons engaged within the United States in providing such service, and to the facilities of cable operators which relate to such service, as provided in subchapter V-A of this chapter.

Subsec. (b). Pub. L. 98-549, § 3(a)(2), inserted "and subchapter V-A" after "section 301 of this title" .

1978—Subsec. (b). Pub. L. 95-234 substituted "Except as provided in section 224 of this title and subject" for "Subject" .

1954—Subsec. (b). Act Apr. 27, 1954, made it clear that intrastate communication service, whether by "wire or radio", would not be subject to the Commission's jurisdiction over charges, classifications, etc., and added cls. (3) and (4).

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-166, title V, § 521(3), Nov. 21, 1989, 103 Stat. 1194, provided that: "The amendments made by this subsection [probably should be "section", which amended this section and section 223 of this title] shall take effect 120 days after the date of enactment of this Act [Nov. 21, 1989]."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-549 effective 60 days after Oct. 30, 1984, except where otherwise expressly pro-

vided, see section 9(a) of Pub. L. 98-549, set out as a note under section 521 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-234, §7, Feb. 21, 1978, 92 Stat. 36, provided that: "The amendments made by this Act [enacting section 224 of this title, amending this section and sections 503 and 504 of this title, repealing sections 510 of this title, and enacting provisions set out as a note under section 609 of this title] shall take effect on the thirtieth day after the date of enactment of this Act [Feb. 21, 1978]; except that the provisions of sections 503(b) and 510 of the Communications Act of 1934 [sections 503(b) and 510 of this title], as in effect on such date of enactment, shall continue to constitute the applicable law with the respect to any act or omission which occurs prior to such thirtieth day."

#### APPLICABILITY OF CONSENT DECREES AND OTHER LAW

Pub. L. 104-104, title VI, §601, Feb. 8, 1996, 110 Stat. 143, provided that:

"(a) APPLICABILITY OF AMENDMENTS TO FUTURE CONDUCT.—

"(1) AT&T CONSENT DECREE.—Any conduct or activity that was, before the date of enactment of this Act [Feb. 8, 1996], subject to any restriction or obligation imposed by the AT&T Consent Decree shall, on and after such date, be subject to the restrictions and obligations imposed by the Communications Act of 1934 [47 U.S.C. 151 et seq.] as amended by this Act and shall not be subject to the restrictions and the obligations imposed by such Consent Decree.

"(2) GTE CONSENT DECREE.—Any conduct or activity that was, before the date of enactment of this Act, subject to any restriction or obligation imposed by the GTE Consent Decree shall, on and after such date, be subject to the restrictions and obligations imposed by the Communications Act of 1934 as amended by this Act and shall not be subject to the restrictions and the obligations imposed by such Consent Decree.

"(3) MCCAW CONSENT DECREE.—Any conduct or activity that was, before the date of enactment of this Act, subject to any restriction or obligation imposed by the McCaw Consent Decree shall, on and after such date, be subject to the restrictions and obligations imposed by the Communications Act of 1934 as amended by this Act and subsection (d) of this section and shall not be subject to the restrictions and the obligations imposed by such Consent Decree.

"(b) ANTITRUST LAWS.—

"(1) SAVINGS CLAUSE.—Except as provided in paragraphs (2) and (3), nothing in this Act [see Short Title of 1996 Amendment note set out under section 609 of this title] or the amendments made by this Act shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws.

"(2) REPEAL.—[Amended section 221 of this title.]

"(3) CLAYTON ACT.—[Amended section 18 of Title 15, Commerce and Trade.]

"(c) FEDERAL, STATE, AND LOCAL LAW.—

"(1) NO IMPLIED EFFECT.—This Act and the amendments made by this Act shall not be construed to modify, impair, or supersede Federal, State, or local law unless expressly so provided in such Act or amendments.

"(2) STATE TAX SAVINGS PROVISION.—Notwithstanding paragraph (1), nothing in this Act or the amendments made by this Act shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or supersession of, any State or local law pertaining to taxation, except as provided in sections 622 and 653(c) of the Communications Act of 1934 [47 U.S.C. 542, 573(c)] and section 602 of this Act [set out as a note below].

"(d) COMMERCIAL MOBILE SERVICE JOINT MARKETING.—Notwithstanding section 22.903 of the Commission's regulations (47 C.F.R. 22.903) or any other Commission regulation, a Bell operating company or any other com-

pany may, except as provided in sections 271(e)(1) and 272 of the Communications Act of 1934 [47 U.S.C. 271(e)(1), 272] as amended by this Act as they relate to wireline service, jointly market and sell commercial mobile services in conjunction with telephone exchange service, exchange access, intraLATA telecommunications service, interLATA telecommunications service, and information services.

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

"(1) AT&T CONSENT DECREE.—The term 'AT&T Consent Decree' means the order entered August 24, 1982, in the antitrust action styled *United States v. Western Electric*, Civil Action No. 82-0192, in the United States District Court for the District of Columbia, and includes any judgment or order with respect to such action entered on or after August 24, 1982.

"(2) GTE CONSENT DECREE.—The term 'GTE Consent Decree' means the order entered December 21, 1984, as restated January 11, 1985, in the action styled *United States v. GTE Corp.*, Civil Action No. 83-1298, in the United States District Court for the District of Columbia, and any judgment or order with respect to such action entered on or after December 21, 1984.

"(3) MCCAW CONSENT DECREE.—The term 'McCaw Consent Decree' means the proposed consent decree filed on July 15, 1994, in the antitrust action styled *United States v. AT&T Corp. and McCaw Cellular Communications, Inc.*, Civil Action No. 94-01555, in the United States District Court for the District of Columbia. Such term includes any stipulation that the parties will abide by the terms of such proposed consent decree until it is entered and any order entering such proposed consent decree.

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

#### PREEMPTION OF LOCAL TAXATION WITH RESPECT TO DIRECT-TO-HOME SERVICES

Pub. L. 104-104, title VI, §602, Feb. 8, 1996, 110 Stat. 144, provided that:

"(a) PREEMPTION.—A provider of direct-to-home satellite service shall be exempt from the collection or remittance, or both, of any tax or fee imposed by any local taxing jurisdiction on direct-to-home satellite service.

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

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

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

"(3) LOCAL TAXING JURISDICTION.—The term 'local taxing jurisdiction' means any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or any other local jurisdiction in the territorial jurisdiction of the United States with the authority to impose a tax or fee, but does not include a State.

"(4) STATE.—The term 'State' means any of the several States, the District of Columbia, or any territory or possession of the United States.

"(5) TAX OR FEE.—The terms 'tax' and 'fee' mean any local sales tax, local use tax, local intangible tax, local income tax, business license tax, utility tax, privilege tax, gross receipts tax, excise tax, franchise fees, local telecommunications tax, or any other tax,



license, or fee that is imposed for the privilege of doing business, regulating, or raising revenue for a local taxing jurisdiction.

“(c) PRESERVATION OF STATE AUTHORITY.—This section shall not be construed to prevent taxation of a provider of direct-to-home satellite service by a State or to prevent a local taxing jurisdiction from receiving revenue derived from a tax or fee imposed and collected by a State.”

### § 153. Definitions

For the purposes of this chapter, unless the context otherwise requires—

#### (1) Advanced communications services

The term “advanced communications services” means—

- (A) inter-connected VoIP service;
- (B) non-interconnected VoIP service;
- (C) electronic messaging service; and
- (D) interoperable video conferencing service.

#### (2) Affiliate

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

#### (3) Amateur station

The term “amateur station” means a radio station operated by a duly authorized person interested in radio technique solely with a personal aim and without pecuniary interest.

#### (4) AT&T Consent Decree

The term “AT&T Consent Decree” means the order entered August 24, 1982, in the anti-trust action styled *United States v. Western Electric*, Civil Action No. 82-0192, in the United States District Court for the District of Columbia, and includes any judgment or order with respect to such action entered on or after August 24, 1982.

#### (5) Bell operating company

The term “Bell operating company”—

(A) means any of the following companies: Bell Telephone Company of Nevada, Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, New England Telephone and Telegraph Company, New Jersey Bell Telephone Company, New York Telephone Company, U S West Communications Company, South Central Bell Telephone Company, Southern Bell Telephone and Telegraph Company, Southwestern Bell Telephone Company, The Bell Telephone Company of Pennsylvania, The Chesapeake and Potomac Telephone Company, The Chesapeake and Potomac Telephone Company of Maryland, The Chesapeake and Potomac Telephone Company of Virginia, The Chesapeake and Potomac Telephone Company of West Virginia, The Diamond State Telephone Company, The Ohio Bell Telephone Company, The Pacific Telephone and Telegraph Company, or Wisconsin Telephone Company; and

(B) includes any successor or assign of any such company that provides wireline telephone exchange service; but

(C) does not include an affiliate of any such company, other than an affiliate described in subparagraph (A) or (B).

#### (6) Broadcast station

The term “broadcast station”, “broadcasting station”, or “radio broadcast station” means a radio station equipped to engage in broadcasting as herein defined.

#### (7) Broadcasting

The term “broadcasting” means the dissemination of radio communications intended to be received by the public, directly or by the intermediary of relay stations.

#### (8) Cable service

The term “cable service” has the meaning given such term in section 522 of this title.

#### (9) Cable system

The term “cable system” has the meaning given such term in section 522 of this title.

#### (10) Chain broadcasting

The term “chain broadcasting” means simultaneous broadcasting of an identical program by two or more connected stations.

#### (11) Common carrier

The term “common carrier” or “carrier” means any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or interstate or foreign radio transmission of energy, except where reference is made to common carriers not subject to this chapter; but a person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier.

#### (12) Connecting carrier

The term “connecting carrier” means a carrier described in clauses (2), (3), or (4) of section 152(b) of this title.

#### (13) Construction permit

The term “construction permit” or “permit for construction” means that instrument of authorization required by this chapter or the rules and regulations of the Commission made pursuant to this chapter for the construction of a station, or the installation of apparatus, for the transmission of energy, or communications, or signals by radio, by whatever name the instrument may be designated by the Commission.

#### (14) Consumer generated media

The term “consumer generated media” means content created and made available by consumers to online websites and services on the Internet, including video, audio, and multimedia content.

#### (15) Corporation

The term “corporation” includes any corporation, joint-stock company, or association.

#### (16) Customer premises equipment

The term “customer premises equipment” means equipment employed on the premises of

a person (other than a carrier) to originate, route, or terminate telecommunications.

**(17) Dialing parity**

The term “dialing parity” means that a person that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications services provider of the customer’s designation from among 2 or more telecommunications services providers (including such local exchange carrier).

**(18) Disability**

The term “disability” has the meaning given such term under section 12102 of title 42.

**(19) Electronic messaging service**

The term “electronic messaging service” means a service that provides real-time or near real-time non-voice messages in text form between individuals over communications networks.

**(20) Exchange access**

The term “exchange access” means the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services.

**(21) Foreign communication**

The term “foreign communication” or “foreign transmission” means communication or transmission from or to any place in the United States to or from a foreign country, or between a station in the United States and a mobile station located outside the United States.

**(22) Great Lakes Agreement**

The term “Great Lakes Agreement” means the Agreement for the Promotion of Safety on the Great Lakes by Means of Radio in force and the regulations referred to therein.

**(23) Harbor**

The term “harbor” or “port” means any place to which ships may resort for shelter or to load or unload passengers or goods, or to obtain fuel, water, or supplies. This term shall apply to such places whether proclaimed public or not and whether natural or artificial.

**(24) Information service**

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

**(25) Interconnected VoIP service**

The term “interconnected VoIP service” has the meaning given such term under section 9.3 of title 47, Code of Federal Regulations, as such section may be amended from time to time.

**(26) InterLATA service**

The term “interLATA service” means telecommunications between a point located in a local access and transport area and a point located outside such area.

**(27) Interoperable video conferencing service**

The term “interoperable video conferencing service” means a service that provides real-time video communications, including audio, to enable users to share information of the user’s choosing.

**(28) Interstate communication**

The term “interstate communication” or “interstate transmission” means communication or transmission (A) from any State, Territory, or possession of the United States (other than the Canal Zone), or the District of Columbia, to any other State, Territory, or possession of the United States (other than the Canal Zone), or the District of Columbia, (B) from or to the United States to or from the Canal Zone, insofar as such communication or transmission takes place within the United States, or (C) between points within the United States but through a foreign country; but shall not, with respect to the provisions of subchapter II of this chapter (other than section 223 of this title), include wire or radio communication between points in the same State, Territory, or possession of the United States, or the District of Columbia, through any place outside thereof, if such communication is regulated by a State commission.

**(29) Land station**

The term “land station” means a station, other than a mobile station, used for radio communication with mobile stations.

**(30) Licensee**

The term “licensee” means the holder of a radio station license granted or continued in force under authority of this chapter.

**(31) Local access and transport area**

The term “local access and transport area” or “LATA” means a contiguous geographic area—

(A) established before February 8, 1996, by a Bell operating company such that no exchange area includes points within more than 1 metropolitan statistical area, consolidated metropolitan statistical area, or State, except as expressly permitted under the AT&T Consent Decree; or

(B) established or modified by a Bell operating company after February 8, 1996, and approved by the Commission.

**(32) Local exchange carrier**

The term “local exchange carrier” means any person that is engaged in the provision of telephone exchange service or exchange access. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under section 332(c) of this title, except to the extent that the Commission finds that such service should be included in the definition of such term.

**(33) Mobile service**

The term “mobile service” means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes (A) both one-way and two-way radio communication services, (B) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (C) any service for which a license is required in a personal communications service established pursuant to the proceeding entitled “Amendment to the Commission’s Rules to Establish New Personal Communications Services” (GEN Docket No. 90–314; ET Docket No. 92–100), or any successor proceeding.

**(34) Mobile station**

The term “mobile station” means a radio-communication station capable of being moved and which ordinarily does move.

**(35) Network element**

The term “network element” means a facility or equipment used in the provision of a telecommunications service. Such term also includes features, functions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service.

**(36) Non-interconnected VoIP service**

The term “non-interconnected VoIP service”—

(A) means a service that—

(i) enables real-time voice communications that originate from or terminate to the user’s location using Internet protocol or any successor protocol; and

(ii) requires Internet protocol compatible customer premises equipment; and

(B) does not include any service that is an interconnected VoIP service.

**(37) Number portability**

The term “number portability” means the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.

**(38) Operator**

(A) The term “operator” on a ship of the United States means, for the purpose of parts II and III of subchapter III of this chapter, a person holding a radio operator’s license of the proper class as prescribed and issued by the Commission.

(B) “Operator” on a foreign ship means, for the purpose of part II of subchapter III of this chapter, a person holding a certificate as such of the proper class complying with the provi-

sions of the radio regulations annexed to the International Telecommunication Convention in force, or complying with an agreement or treaty between the United States and the country in which the ship is registered.

**(39) Person**

The term “person” includes an individual, partnership, association, joint-stock company, trust, or corporation.

**(40) Radio communication**

The term “radio communication” or “communication by radio” means the transmission by radio of writing, signs, signals, pictures, and sounds of all kinds, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission.

**(41) Radio officer**

(A) The term “radio officer” on a ship of the United States means, for the purpose of part II of subchapter III of this chapter, a person holding at least a first or second class radiotelegraph operator’s license as prescribed and issued by the Commission. When such person is employed to operate a radiotelegraph station aboard a ship of the United States, he is also required to be licensed as a “radio officer” in accordance with chapter 71 of title 46.

(B) “Radio officer” on a foreign ship means, for the purpose of part II of subchapter III of this chapter, a person holding at least a first or second class radiotelegraph operator’s certificate complying with the provisions of the radio regulations annexed to the International Telecommunication Convention in force.

**(42) Radio station**

The term “radio station” or “station” means a station equipped to engage in radio communication or radio transmission of energy.

**(43) Radiotelegraph auto alarm**

The term “radiotelegraph auto alarm” on a ship of the United States subject to the provisions of part II of subchapter III of this chapter means an automatic alarm receiving apparatus which responds to the radiotelegraph alarm signal and has been approved by the Commission. “Radiotelegraph auto alarm” on a foreign ship means an automatic alarm receiving apparatus which responds to the radiotelegraph alarm signal and has been approved by the government of the country in which the ship is registered: *Provided*, That the United States and the country in which the ship is registered are parties to the same treaty, convention, or agreement prescribing the requirements for such apparatus. Nothing in this chapter or in any other provision of law shall be construed to require the recognition of a radiotelegraph auto alarm as complying with part II of subchapter III of this chapter, on a foreign ship subject to part II of subchapter III of this chapter, where the country in which the ship is registered and the United States are not parties to the same treaty, convention, or agreement prescribing the requirements for such apparatus.

**(44) Rural telephone company**

The term “rural telephone company” means a local exchange carrier operating entity to the extent that such entity—

(A) provides common carrier service to any local exchange carrier study area that does not include either—

(i) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or

(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;

(B) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(C) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

(D) has less than 15 percent of its access lines in communities of more than 50,000 on February 8, 1996.

**(45) Safety convention**

The term “safety convention” means the International Convention for the Safety of Life at Sea in force and the regulations referred to therein.

**(46) Ship**

(A) The term “ship” or “vessel” includes every description of watercraft or other artificial contrivance, except aircraft, used or capable of being used as a means of transportation on water, whether or not it is actually afloat.

(B) A ship shall be considered a passenger ship if it carries or is licensed or certificated to carry more than twelve passengers.

(C) A cargo ship means any ship not a passenger ship.

(D) A passenger is any person carried on board a ship or vessel except (1) the officers and crew actually employed to man and operate the ship, (2) persons employed to carry on the business of the ship, and (3) persons on board a ship when they are carried, either because of the obligation laid upon the master to carry shipwrecked, distressed, or other persons in like or similar situations or by reason of any circumstance over which neither the master, the owner, nor the charterer (if any) has control.

(E) “Nuclear ship” means a ship provided with a nuclear powerplant.

**(47) State**

The term “State” includes the District of Columbia and the Territories and possessions.

**(48) State commission**

The term “State commission” means the commission, board, or official (by whatever name designated) which under the laws of any State has regulatory jurisdiction with respect to intrastate operations of carriers.

**(49) Station license**

The term “station license”, “radio station license”, or “license” means that instrument of authorization required by this chapter or

the rules and regulations of the Commission made pursuant to this chapter, for the use or operation of apparatus for transmission of energy, or communications, or signals by radio, by whatever name the instrument may be designated by the Commission.

**(50) Telecommunications**

The term “telecommunications” means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.

**(51) Telecommunications carrier**

The term “telecommunications carrier” means any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in section 226 of this title). A telecommunications carrier shall be treated as a common carrier under this chapter only to the extent that it is engaged in providing telecommunications services, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as common carriage.

**(52) Telecommunications equipment**

The term “telecommunications equipment” means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades).

**(53) Telecommunications service**

The term “telecommunications service” means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

**(54) Telephone exchange service**

The term “telephone exchange service” means (A) service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge, or (B) comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service.

**(55) Telephone toll service**

The term “telephone toll service” means telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts with subscribers for exchange service.

**(56) Television service****(A) Analog television service**

The term “analog television service” means television service provided pursuant to the transmission standards prescribed by the Commission in section 73.682(a) of its regulations (47 C.F.R. 73.682(a)).

**(B) Digital television service**

The term “digital television service” means television service provided pursuant

to the transmission standards prescribed by the Commission in section 73.682(d) of its regulations (47 C.F.R. 73.682(d)).

**(57) Transmission of energy by radio**

The term “transmission of energy by radio” or “radio transmission of energy” includes both such transmission and all instrumentalities, facilities, and services incidental to such transmission.

**(58) United States**

The term “United States” means the several States and Territories, the District of Columbia, and the possessions of the United States, but does not include the Canal Zone.

**(59) Wire communication**

The term “wire communication” or “communication by wire” means the transmission of writing, signs, signals, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission.

(June 19, 1934, ch. 652, title I, § 3, 48 Stat. 1065; May 20, 1937, ch. 229, § 2, 50 Stat. 189; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; July 16, 1952, ch. 879, § 2, 66 Stat. 711; Apr. 27, 1954, ch. 175, §§ 2, 3, 68 Stat. 64; Aug. 13, 1954, ch. 729, § 3, 68 Stat. 707; Aug. 13, 1954, ch. 735, § 1, 68 Stat. 729; Aug. 6, 1956, ch. 973, § 3, 70 Stat. 1049; Pub. L. 89-121, § 1, Aug. 13, 1965, 79 Stat. 511; Pub. L. 90-299, § 2, May 3, 1968, 82 Stat. 112; Pub. L. 97-259, title I, § 120(b), Sept. 13, 1982, 96 Stat. 1097; Pub. L. 103-66, title VI, § 6002(b)(2)(B)(ii), Aug. 10, 1993, 107 Stat. 396; Pub. L. 104-104, § 3(a), (c), Feb. 8, 1996, 110 Stat. 58, 61; Pub. L. 105-33, title III, § 3001(b), Aug. 5, 1997, 111 Stat. 258; Pub. L. 111-260, title I, § 101, Oct. 8, 2010, 124 Stat. 2752.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

For definition of Canal Zone, referred to in pars. (28) and (58), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

Part II of subchapter III of this chapter, referred to in pars. (38), (41), and (43), is classified to section 351 et seq. of this title. Part III of subchapter III of this chapter, referred to in par. (38)(A), is classified to section 381 et seq. of this title.

CODIFICATION

In par. (41)(A), “chapter 71 of title 46” substituted for “the Act of May 12, 1948 (46 U.S.C. 229a-h)” on authority of Pub. L. 98-89, § 2(b), Aug. 26, 1983, 97 Stat. 598, section 1 of which enacted Title 46, Shipping.

References to Philippine Islands in pars. (28) and (58) of this section omitted on authority of Proc. No. 2695, issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse, which proclamation recognized the independence of Philippine Islands as of July 4, 1946. Proc. No. 2695 is set out under section 1394 of Title 22.

AMENDMENTS

2010—Pub. L. 111-260 added pars. (53) to (59), reordered pars. in alphabetical order based on headings of pars.,

and renumbered pars. as so reordered, resulting in the renumbering of pars. (1) to (59) as pars. (2) to (13), (15) to (17), (20) to (24), (26), (28) to (35), (37) to (59), (1), (14), (18), (19), (25), (36), and (27), respectively.

1997—Pars. (49) to (52). Pub. L. 105-33 added par. (49) and redesignated former pars. (49) to (51) as (50) to (52), respectively.

1996—Pub. L. 104-104, § 3(a)(2), (c)(4)–(8), redesignated subsecs. (a) to (ff) as pars. (1) to (32), respectively, realigned margins, inserted headings and words “The term”, changed capitalization, added pars. (33) to (51), reordered pars. in alphabetical order based on headings of pars., and renumbered pars. as so reordered.

Subsecs. (e), (n). Pub. L. 104-104, § 3(c)(1), redesignated clauses (1) to (3) as (A) to (C), respectively.

Subsec. (r). Pub. L. 104-104, § 3(a)(1), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (w). Pub. L. 104-104, § 3(c)(2), redesignated pars. (1) to (5) as subpars. (A) to (E), respectively.

Subsecs. (y), (z). Pub. L. 104-104, § 3(c)(3), redesignated pars. (1) and (2) as subpars. (A) and (B), respectively.

1993—Subsec. (n). Pub. L. 103-66, § 6002(b)(2)(B)(ii)(I), inserted cl. (1) designation and added cls. (2) and (3).

Subsec. (gg). Pub. L. 103-66, § 6002(b)(2)(B)(ii)(II), struck out subsec. (gg) which read as follows: “‘Private land mobile service’ means a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation.”

1982—Subsec. (n). Pub. L. 97-259, § 120(b)(2), substituted “a radio” for “the radio”, inserted “(or receivers” after “between mobile stations”, and inserted provision that “mobile service” includes both one-way and two-way radio communication services.

Subsec. (gg). Pub. L. 97-259, § 120(b)(1), added subsec. (gg).

1968—Subsec. (e). Pub. L. 90-299 inserted “(other than section 223 of this title)” after “subchapter II of this chapter”.

1965—Subsec. (w)(5). Pub. L. 89-121, § 1(1), added par. (5).

Subsec. (x). Pub. L. 89-121, § 1(2), among other changes, substituted “radiotelegraph auto alarm” for “auto-alarm” wherever appearing, “receiving apparatus which responds to the radiotelegraph alarm signal” for “receiver” in two places, and “country in which the ship is registered” for “country to which the ship belongs” and for “country of origin”.

Subsec. (y). Pub. L. 89-121, § 1(3), struck out “qualified operator” from pars. (1) and (2), and substituted “country in which the ship is registered” for “country to which the ship belongs”.

Subsec. (z). Pub. L. 89-121, § 1(4)(D), (E), added subsec. (z) and redesignated former subsec. (z) as (aa).

Subsec. (aa). Pub. L. 89-121, § 1(4)(A), (D), redesignated former subsec. (z) as (aa) and former subsec. (aa) as (bb).

Subsecs. (bb) to (dd). Pub. L. 89-121, § 1(4)(A), redesignated former subsecs. (aa) to (cc) as (bb) to (dd) and former subsec. (dd) as (ee).

Subsec. (ee). Pub. L. 89-121, § 1(4)(A), (B), redesignated former subsec. (dd) as (ee), and repealed former subsec. (ee) which defined “existing installation”.

Subsecs. (ff), (gg). Pub. L. 89-121, § 1(4)(B), (C), redesignated subsec. (gg) as (ff) and repealed former subsec. (ff) which defined “new installation”.

1956—Subsec. (y)(2). Act Aug. 6, 1956, substituted “parts II and III of subchapter III of this chapter” for “part II of subchapter III of this chapter”.

1954—Subsec. (e). Act Apr. 27, 1954, § 2, obviated any possible construction that the Commission is empowered to assert common-carrier jurisdiction over point-to-point communication by radio between two points within a single State when the only possible claim that such an operation constitutes an interstate communication rests on the fact that the signal may traverse the territory of another State.

Subsec. (u). Act Apr. 27, 1954, §3, inserted reference to clauses (3) and (4) of section 152(b) of this title.

Subsecs. (ee), (ff). Act Aug. 13, 1954, ch. 729, added subsecs. (ee) and (ff).

Subsec. (gg). “Great Lakes Agreement”. Act Aug. 13, 1954, ch. 735, added another subsec. (ee) which for purposes of codification was designated subsec. (gg).

1952—Subsecs. (bb) to (dd). Act July 16, 1952, added subsecs. (bb) to (dd).

1937—Subsecs. (w) to (aa). Act May 20, 1937, added subsecs. (w) to (aa).

#### EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act Aug. 6, 1956, effective Mar. 1, 1957, see section 4 of act Aug. 6, 1956, set out as an Effective Date note under section 381 of this title.

#### EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 13, 1954, ch. 735, effective Nov. 13, 1954, see section 6 of act Aug. 13, 1954, set out as an Effective Date note under section 507 of this title.

#### EFFECTIVE DATE OF 1952 AMENDMENT

Section 19 of act July 16, 1952, provided that: “This Act [enacting section 1343 of Title 18, Crimes and Criminal Procedure, amending this section and sections 154, 155, 307 to 312, 315, 316, 319, 402, 405, 409, and 410 of this title, and enacting provisions set out as notes under this section and section 609 of this title] shall take effect on the date of its enactment [July 16, 1952], but—

“(1) Insofar as the amendments made by this Act to the Communications Act of 1934 [this chapter] provide for procedural changes, requirements imposed by such changes shall not be mandatory as to any agency proceeding (as defined in the Administrative Procedure Act) [see sections 551 et seq. and 701 et seq. of Title 5, Government Organization and Employees] with respect to which hearings have been commenced prior to the date of enactment of this Act [July 16, 1952].

“(2) The amendments made by this Act to section 402 of the Communications Act of 1934 [section 402 of this title] (relating to judicial review of orders and decisions of the Commission) shall not apply with respect to any action or appeal which is pending before any court on the date of enactment of this Act [July 16, 1952].”

#### LIMITATION ON LIABILITY

Pub. L. 111-260, §2, Oct. 8, 2010, 124 Stat. 2751, provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), no person shall be liable for a violation of the requirements of this Act [see Short Title of 2010 Amendment note set out under section 609 of this title] (or of the provisions of the Communications Act of 1934 [47 U.S.C. 151 et seq.] that are amended or added by this Act) with respect to video programming, online content, applications, services, advanced communications services, or equipment used to provide or access advanced communications services to the extent such person—

“(1) transmits, routes, or stores in intermediate or transient storage the communications made available through the provision of advanced communications services by a third party; or

“(2) provides an information location tool, such as a directory, index, reference, pointer, menu, guide, user interface, or hypertext link, through which an end user obtains access to such video programming, online content, applications, services, advanced communications services, or equipment used to provide or access advanced communications services.

“(b) EXCEPTION.—The limitation on liability under subsection (a) shall not apply to any person who relies on third party applications, services, software, hardware, or equipment to comply with the requirements of this Act (or of the provisions of the Communications

Act of 1934 that are amended or added by this Act) with respect to video programming, online content, applications, services, advanced communications services, or equipment used to provide or access advanced communications services.”

#### PROPRIETARY TECHNOLOGY

Pub. L. 111-260, §3, Oct. 8, 2010, 124 Stat. 2752, provided that: “No action taken by the Federal Communications Commission to implement this Act [see Short Title of 2010 Amendment note set out under section 609 of this title] or any amendment made by this Act shall mandate the use or incorporation of proprietary technology.”

#### GREAT LAKES AGREEMENT

The Great Lakes Agreement, referred to in this section, relates to the bilateral Agreement for the Promotion of Safety on the Great Lakes by Means of Radio, signed at Ottawa, Canada, Feb. 21, 1952; entered into force Nov. 13, 1954, 3 UST 4926. A subsequent agreement for Promotion of Safety on the Great Lakes by Means of Radio, 1973, was signed at Ottawa, Canada, Feb. 26, 1973, and entered into force May 16, 1975, 25 UST 935.

#### SAFETY CONVENTION

The United States was a party to the International Convention for the Safety of Life at Sea, signed at London May 31, 1929, entered into force as to the United States, Nov. 7, 1936, 50 Stat. 1121, 1306. For subsequent International Conventions for the Safety of Life at Sea to which the United States has been a party, see section 1602 of Title 33, Navigation and Navigable Waters, and notes thereunder.

#### DEFINITIONS

Pub. L. 113-200, title I, §112, Dec. 4, 2014, 128 Stat. 2066, provided that: “In this title [amending sections 325, 338, 534, and 543 of this title and enacting provisions set out as notes under sections 325, 338, and 534 of this title]:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means the Committee on Energy and Commerce and the Committee on the Judiciary of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on the Judiciary of the Senate.

“(2) COMMISSION.—The term ‘Commission’ means the Federal Communications Commission.”

Pub. L. 111-260, title II, §206, Oct. 8, 2010, 124 Stat. 2776, provided that: “In this title [amending sections 303, 330, and 613 of this title and enacting provisions set out as notes under sections 303 and 613 of this title]:

“(1) ADVISORY COMMITTEE.—The term ‘Advisory Committee’ means the advisory committee established in section 201 [47 U.S.C. 613 note].

“(2) CHAIRMAN.—The term ‘Chairman’ means the Chairman of the Federal Communications Commission.

“(3) COMMISSION.—The term ‘Commission’ means the Federal Communications Commission.

“(4) EMERGENCY INFORMATION.—The term ‘emergency information’ has the meaning given such term in section 79.2 of title 47, Code of Federal Regulations.

“(5) INTERNET PROTOCOL.—The term ‘Internet protocol’ includes Transmission Control Protocol and a successor protocol or technology to Internet protocol.

“(6) NAVIGATION DEVICE.—The term ‘navigation device’ has the meaning given such term in section 76.1200 of title 47, Code of Federal Regulations.

“(7) VIDEO DESCRIPTION.—The term ‘video description’ has the meaning given such term in section 713 of the Communications Act of 1934 (47 U.S.C. 613).

“(8) VIDEO PROGRAMMING.—The term ‘video programming’ has the meaning given such term in section 713 of the Communications Act of 1934 (47 U.S.C. 613).”

Pub. L. 105-33, title III, §3001(a), Aug. 5, 1997, 111 Stat. 258, provided that: "Except as otherwise provided in this title [enacting section 337 of this title, amending this section and sections 303, 309, and 923 to 925 of this title, enacting provisions set out as notes under sections 254, 309, and 925 of this title, and repealing provisions set out as a note under section 309 of this title], the terms used in this title have the meanings provided in section 3 of the Communications Act of 1934 (47 U.S.C. 153), as amended by this section."

Pub. L. 104-104, §3(b), Feb. 8, 1996, 110 Stat. 61, provided that: "Except as otherwise provided in this Act [see Short Title of 1996 Amendment note set out under section 609 of this title], the terms used in this Act have the meanings provided in section 3 of the Communications Act of 1934 (47 U.S.C. 153), as amended by this section."

## § 154. Federal Communications Commission

### (a) Number of commissioners; appointment

The Federal Communications Commission (in this chapter referred to as the "Commission") shall be composed of five commissioners appointed by the President, by and with the advice and consent of the Senate, one of whom the President shall designate as chairman.

### (b) Qualifications

(1) Each member of the Commission shall be a citizen of the United States.

(2)(A) No member of the Commission or person employed by the Commission shall—

(i) be financially interested in any company or other entity engaged in the manufacture or sale of telecommunications equipment which is subject to regulation by the Commission;

(ii) be financially interested in any company or other entity engaged in the business of communication by wire or radio or in the use of the electromagnetic spectrum;

(iii) be financially interested in any company or other entity which controls any company or other entity specified in clause (i) or clause (ii), or which derives a significant portion of its total income from ownership of stocks, bonds, or other securities of any such company or other entity; or

(iv) be employed by, hold any official relation to, or own any stocks, bonds, or other securities of, any person significantly regulated by the Commission under this chapter;

except that the prohibitions established in this subparagraph shall apply only to financial interests in any company or other entity which has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission.

(B)(i) The Commission shall have authority to waive, from time to time, the application of the prohibitions established in subparagraph (A) to persons employed by the Commission if the Commission determines that the financial interests of a person which are involved in a particular case are minimal, except that such waiver authority shall be subject to the provisions of section 208 of title 18. The waiver authority established in this subparagraph shall not apply with respect to members of the Commission.

(ii) In any case in which the Commission exercises the waiver authority established in this subparagraph, the Commission shall publish notice of such action in the Federal Register.

(3) The Commission, in determining whether a company or other entity has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission, shall consider (without excluding other relevant factors)—

(A) the revenues, investments, profits, and managerial efforts directed to the related communications, manufacturing, or sales activities of the company or other entity involved, as compared to the other aspects of the business of such company or other entity;

(B) the extent to which the Commission regulates and oversees the activities of such company or other entity;

(C) the degree to which the economic interests of such company or other entity may be affected by any action of the Commission; and

(D) the perceptions held by the public regarding the business activities of such company or other entity.

(4) Members of the Commission shall not engage in any other business, vocation, profession, or employment while serving as such members.

(5) The maximum number of commissioners who may be members of the same political party shall be a number equal to the least number of commissioners which constitutes a majority of the full membership of the Commission.

### (c) Terms of office; vacancies

(1) A commissioner—

(A) shall be appointed for a term of 5 years;

(B) except as provided in subparagraph (C), may continue to serve after the expiration of the fixed term of office of the commissioner until a successor is appointed and has been confirmed and taken the oath of office; and

(C) may not continue to serve after the expiration of the session of Congress that begins after the expiration of the fixed term of office of the commissioner.

(2) Any person chosen to fill a vacancy in the Commission—

(A) shall be appointed for the unexpired term of the commissioner that the person succeeds;

(B) except as provided in subparagraph (C), may continue to serve after the expiration of the fixed term of office of the commissioner that the person succeeds until a successor is appointed and has been confirmed and taken the oath of office; and

(C) may not continue to serve after the expiration of the session of Congress that begins after the expiration of the fixed term of office of the commissioner that the person succeeds.

(3) No vacancy in the Commission shall impair the right of the remaining commissioners to exercise all the powers of the Commission.

### (d) Compensation of Commission members

Each Commissioner shall receive an annual salary at the annual rate payable from time to time for level IV of the Executive Schedule, payable in monthly installments. The Chairman of the Commission, during the period of his service as Chairman, shall receive an annual salary at the annual rate payable from time to time for level III of the Executive Schedule.

**(e) Principal office; special sessions**

The principal office of the Commission shall be in the District of Columbia, where its general sessions shall be held; but whenever the convenience of the public or of the parties may be promoted or delay or expense prevented thereby, the Commission may hold special sessions in any part of the United States.

**(f) Employees and assistants; compensation of members of Field Engineering and Monitoring Bureau; use of amateur volunteers for certain purposes; commercial radio operator examinations**

(1) The Commission shall have authority, subject to the provisions of the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5, to appoint such officers, engineers, accountants, attorneys, inspectors, examiners, and other employees as are necessary in the exercise of its functions.

(2) Without regard to the civil-service laws, but subject to chapter 51 and subchapter III of chapter 53 of title 5, each commissioner may appoint three professional assistants and a secretary, each of whom shall perform such duties as such commissioner shall direct. In addition, the chairman of the Commission may appoint, without regard to the civil-service laws, but subject to chapter 51 and subchapter III of chapter 53 of title 5, and administrative assistant who shall perform such duties as the chairman shall direct.

(3) The Commission shall fix a reasonable rate of extra compensation for overtime services of engineers in charge and radio engineers of the Field Engineering and Monitoring Bureau of the Federal Communications Commission, who may be required to remain on duty between the hours of 5 o'clock postmeridian and 8 o'clock antemeridian or on Sundays or holidays to perform services in connection with the inspection of ship radio equipment and apparatus for the purposes of part II of subchapter III of this chapter or the Great Lakes Agreement, on the basis of one-half day's additional pay for each two hours or fraction thereof of at least one hour that the overtime extends beyond 5 o'clock postmeridian (but not to exceed two and one-half days' pay for the full period from 5 o'clock postmeridian to 8 o'clock antemeridian) and two additional days' pay for Sunday or holiday duty. The said extra compensation for overtime services shall be paid by the master, owner, or agent of such vessel to the local United States collector of customs or his representative, who shall deposit such collection into the Treasury of the United States to an appropriately designated receipt account: *Provided*, That the amounts of such collections received by the said collector of customs or his representatives shall be covered into the Treasury as miscellaneous receipts; and the payments of such extra compensation to the several employees entitled thereto shall be made from the annual appropriations for salaries and expenses of the Commission: *Provided further*, That to the extent that the annual appropriations which are authorized to be made from the general fund of the Treasury are insufficient, there are authorized to be appropriated from the general fund of the Treasury such additional amounts as may be

necessary to the extent that the amounts of such receipts are in excess of the amounts appropriated: *Provided further*, That such extra compensation shall be paid if such field employees have been ordered to report for duty and have so reported whether the actual inspection of the radio equipment or apparatus takes place or not: *And provided further*, That in those ports where customary working hours are other than those hereinabove mentioned, the engineers in charge are vested with authority to regulate the hours of such employees so as to agree with prevailing working hours in said ports where inspections are to be made, but nothing contained in this proviso shall be construed in any manner to alter the length of a working day for the engineers in charge and radio engineers or the overtime pay herein fixed: *Provided further*, That, in the alternative, an entity designated by the Commission may make the inspections referred to in this paragraph.

(4)(A) The Commission, for purposes of preparing or administering any examination for an amateur station operator license, may accept and employ the voluntary and uncompensated services of any individual who holds an amateur station operator license of a higher class than the class of license for which the examination is being prepared or administered. In the case of examinations for the highest class of amateur station operator license, the Commission may accept and employ such services of any individual who holds such class of license.

(B)(i) The Commission, for purposes of monitoring violations of any provision of this chapter (and of any regulation prescribed by the Commission under this chapter) relating to the amateur radio service, may—

(I) recruit and train any individual licensed by the Commission to operate an amateur station; and

(II) accept and employ the voluntary and uncompensated services of such individual.

(ii) The Commission, for purposes of recruiting and training individuals under clause (i) and for purposes of screening, annotating, and summarizing violation reports referred under clause (i), may accept and employ the voluntary and uncompensated services of any amateur station operator organization.

(iii) The functions of individuals recruited and trained under this subparagraph shall be limited to—

(I) the detection of improper amateur radio transmissions;

(II) the conveyance to Commission personnel of information which is essential to the enforcement of this chapter (or regulations prescribed by the Commission under this chapter) relating to the amateur radio service; and

(III) issuing advisory notices, under the general direction of the Commission, to persons who apparently have violated any provision of this chapter (or regulations prescribed by the Commission under this chapter) relating to the amateur radio service.

Nothing in this clause shall be construed to grant individuals recruited and trained under this subparagraph any authority to issue sanctions to violators or to take any enforcement



action other than any action which the Commission may prescribe by rule.

(C)(i) The Commission, for purposes of monitoring violations of any provision of this chapter (and of any regulation prescribed by the Commission under this chapter) relating to the citizens band radio service, may—

(I) recruit and train any citizens band radio operator; and

(II) accept and employ the voluntary and uncompensated services of such operator.

(ii) The Commission, for purposes of recruiting and training individuals under clause (i) and for purposes of screening, annotating, and summarizing violation reports referred under clause (i), may accept and employ the voluntary and uncompensated services of any citizens band radio operator organization. The Commission, in accepting and employing services of individuals under this subparagraph, shall seek to achieve a broad representation of individuals and organizations interested in citizens band radio operation.

(iii) The functions of individuals recruited and trained under this subparagraph shall be limited to—

(I) the detection of improper citizens band radio transmissions;

(II) the conveyance to Commission personnel of information which is essential to the enforcement of this chapter (or regulations prescribed by the Commission under this chapter) relating to the citizens band radio service; and

(III) issuing advisory notices, under the general direction of the Commission, to persons who apparently have violated any provision of this chapter (or regulations prescribed by the Commission under this chapter) relating to the citizens band radio service.

Nothing in this clause shall be construed to grant individuals recruited and trained under this subparagraph any authority to issue sanctions to violators or to take any enforcement action other than any action which the Commission may prescribe by rule.

(D) The Commission shall have the authority to endorse certification of individuals to perform transmitter installation, operation, maintenance, and repair duties in the private land mobile services and fixed services (as defined by the Commission by rule) if such certification programs are conducted by organizations or committees which are representative of the users in those services and which consist of individuals who are not officers or employees of the Federal Government.

(E) The authority of the Commission established in this paragraph shall not be subject to or affected by the provisions of part III of title 5 or section 1342 of title 31.

(F) Any person who provides services under this paragraph shall not be considered, by reason of having provided such services, a Federal employee.

(G) The Commission, in accepting and employing services of individuals under subparagraphs (A) and (B), shall seek to achieve a broad representation of individuals and organizations interested in amateur station operation.

(H) The Commission may establish rules of conduct and other regulations governing the service of individuals under this paragraph.

(I) With respect to the acceptance of voluntary uncompensated services for the preparation, processing, or administration of examinations for amateur station operator licenses pursuant to subparagraph (A) of this paragraph, individuals, or organizations which provide or coordinate such authorized volunteer services may recover from examinees reimbursement for out-of-pocket costs.

(5)(A) The Commission, for purposes of preparing and administering any examination for a commercial radio operator license or endorsement, may accept and employ the services of persons that the Commission determines to be qualified. Any person so employed may not receive compensation for such services, but may recover from examinees such fees as the Commission permits, considering such factors as public service and cost estimates submitted by such person.

(B) The Commission may prescribe regulations to select, oversee, sanction, and dismiss any person authorized under this paragraph to be employed by the Commission.

(C) Any person who provides services under this paragraph or who provides goods in connection with such services shall not, by reason of having provided such service or goods, be considered a Federal or special government employee.

**(g) Expenditures**

(1) The Commission may make such expenditures (including expenditures for rent and personal services at the seat of government and elsewhere, for office supplies, law books, periodicals, and books of reference, for printing and binding, for land for use as sites for radio monitoring stations and related facilities, including living quarters where necessary in remote areas, for the construction of such stations and facilities, and for the improvement, furnishing, equipping, and repairing of such stations and facilities and of laboratories and other related facilities (including construction of minor subsidiary buildings and structures not exceeding \$25,000 in any one instance) used in connection with technical research activities), as may be necessary for the execution of the functions vested in the Commission and as may be appropriated for by the Congress in accordance with the authorizations of appropriations established in section 156 of this title. All expenditures of the Commission, including all necessary expenses for transportation incurred by the commissioners or by their employees, under their orders, in making any investigation or upon any official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman of the Commission or by such other member or officer thereof as may be designated by the Commission for that purpose.

(2) Repealed. Pub. L. 115-141, div. P, title IV, § 402(i)(1)(B), Mar. 23, 2018, 132 Stat. 1089.

(3)(A) Notwithstanding any other provision of law, in furtherance of its functions the Commission is authorized to accept, hold, administer, and use unconditional gifts, donations, and bequests of real, personal, and other property (including voluntary and uncompensated services, as authorized by section 3109 of title 5).

(B) The Commission, for purposes of providing radio club and military-recreational call signs, may utilize the voluntary, uncompensated, and unreimbursed services of amateur radio organizations authorized by the Commission that have tax-exempt status under section 501(c)(3) of title 26.

(C) For the purpose of Federal law on income taxes, estate taxes, and gift taxes, property or services accepted under the authority of subparagraph (A) shall be deemed to be a gift, bequest, or devise to the United States.

(D) The Commission shall promulgate regulations to carry out the provisions of this paragraph. Such regulations shall include provisions to preclude the acceptance of any gift, bequest, or donation that would create a conflict of interest or the appearance of a conflict of interest.

**(h) Quorum; seal**

Three members of the Commission shall constitute a quorum thereof. The Commission shall have an official seal which shall be judicially noticed.

**(i) Duties and powers**

The Commission may perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this chapter, as may be necessary in the execution of its functions.

**(j) Conduct of proceedings; hearings**

The Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice. No commissioner shall participate in any hearing or proceeding in which he has a pecuniary interest. Any party may appear before the Commission and be heard in person or by attorney. Every vote and official act of the Commission shall be entered of record, and its proceedings shall be public upon the request of any party interested. The Commission is authorized to withhold publication of records or proceedings containing secret information affecting the national defense.

**(k) Record of reports**

All reports of investigations made by the Commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier or licensee that may have been complained of.

**(l) Publication of reports; admissibility as evidence**

The Commission shall provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of the Commission therein contained in all courts of the United States and of the several States without any further proof or authentication thereof.

**(m) Compensation of appointees**

Rates of compensation of persons appointed under this section shall be subject to the reduction applicable to officers and employees of the Federal Government generally.

**(n) Use of communications in safety of life and property**

For the purpose of obtaining maximum effectiveness from the use of radio and wire communications in connection with safety of life and property, the Commission shall investigate and study all phases of the problem and the best methods of obtaining the cooperation and coordination of these systems.

(June 19, 1934, ch. 652, title I, § 4, 48 Stat. 1066; Jan. 22, 1936, ch. 25, 49 Stat. 1098; May 20, 1937, ch. 229, §§ 3, 4, 50 Stat. 190; Mar. 23, 1941, ch. 24, 55 Stat. 46; July 16, 1952, ch. 879, § 3, 66 Stat. 711; Aug. 13, 1954, ch. 735, § 2, 68 Stat. 729; Pub. L. 86-533, § 1(24), June 29, 1960, 74 Stat. 249; Pub. L. 86-619, § 2, July 12, 1960, 74 Stat. 407; Pub. L. 86-752, § 2, Sept. 13, 1960, 74 Stat. 889; Pub. L. 97-35, title XII, § 1251(b), Aug. 13, 1981, 95 Stat. 738; Pub. L. 97-253, title V, § 501(b)(1)-(3), Sept. 8, 1982, 96 Stat. 805, 806; Pub. L. 97-259, title I, §§ 102-104, Sept. 13, 1982, 96 Stat. 1087-1089; Pub. L. 98-214, §§ 10, 11, Dec. 8, 1983, 97 Stat. 1471; Pub. L. 99-272, title V, § 5002(b), Apr. 7, 1986, 100 Stat. 118; Pub. L. 99-334, § 1(a), June 6, 1986, 100 Stat. 513; Pub. L. 100-594, § 3, Nov. 3, 1988, 102 Stat. 3021; Pub. L. 101-396, §§ 3, 4, Sept. 28, 1990, 104 Stat. 848, 849; Pub. L. 102-538, title II, §§ 201, 208, Oct. 27, 1992, 106 Stat. 3542, 3543; Pub. L. 103-414, title III, § 303(a)(1), Oct. 25, 1994, 108 Stat. 4294; Pub. L. 104-66, title II, § 2051(b), Dec. 21, 1995, 109 Stat. 729; Pub. L. 104-104, title IV, § 403(a), (b), Feb. 8, 1996, 110 Stat. 130; Pub. L. 115-141, div. P, title IV, § 402(h)(1), (i)(1), title V, § 509, Mar. 23, 2018, 132 Stat. 1089, 1096.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

Level III and level IV of the Executive Schedule, referred to in subsec. (d), are set out in sections 5314 and 5315, respectively, of Title 5, Government Organization and Employees.

Part II of subchapter III of this chapter, referred to in subsec. (f)(3), is classified to section 351 et seq. of this title.

Provisions of part III of title 5, referred to in subsec. (f)(4)(E), are classified to section 2101 et seq. of Title 5, Government Organization and Employees.

CODIFICATION

In subsec. (f)(1), (2), “chapter 51 and subchapter III of chapter 53 of title 5” substituted for “the Classification of 1949” on authority of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

In subsec. (f)(4)(E), “section 1342 of title 31” substituted for “section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))” on authority of Pub. L. 97-258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

2018—Subsec. (b)(2)(B)(ii). Pub. L. 115-141, § 402(i)(1)(A), struck out before period at end “and shall furnish notice of such action to the appropriate committees of each House of the Congress. Each such notice shall include information regarding the identity of the person receiving the waiver, the position held by such person, and the nature of the financial interests which are the subject of the waiver”.

Subsec. (c). Pub. L. 115-141, § 509, amended subsec. (c) generally. Prior to amendment, text read as follows: "commissioners shall be appointed for terms of five years and until their successors are appointed and have been confirmed and taken the oath of office, except that they shall not continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office; except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he succeeds. No vacancy in the Commission shall impair the right of the remaining commissioners to exercise all the powers of the Commission."

Subsec. (g)(2). Pub. L. 115-141, § 402(i)(1)(B), struck out par. (2), which related to reimbursements to the Commission for necessary travel expenses.

Subsecs. (k) to (o). Pub. L. 115-141, § 402(h)(1), redesignated subsecs. (l) to (o) as (k) to (n), respectively, and struck out former subsec. (k). Prior to amendment, text of subsec. (k) read as follows: "The Commission shall make an annual report to Congress, copies of which shall be distributed as are other reports transmitted to Congress. Such reports shall contain—

"(1) such information and data collected by the Commission as may be considered of value in the determination of questions connected with the regulation of interstate and foreign wire and radio communication and radio transmission of energy;

"(2) such information and data concerning the functioning of the Commission as will be of value to Congress in appraising the amount and character of the work and accomplishments of the Commission and the adequacy of its staff and equipment;

"(3) an itemized statement of all funds expended during the preceding year by the Commission, of the sources of such funds, and of the authority in this chapter or elsewhere under which such expenditures were made; and

"(4) specific recommendations to Congress as to additional legislation which the Commission deems necessary or desirable, including all legislative proposals submitted for approval to the Director of the Office of Management and Budget."

1996—Subsec. (f)(3). Pub. L. 104-104, § 403(b), inserted before period at end "": and *Provided further*, That, in the alternative, an entity designated by the Commission may make the inspections referred to in this paragraph".

Subsec. (f)(4)(A). Pub. L. 104-104, § 403(a)(1), in first sentence, inserted "or administering" after "for purposes of preparing", "of" after "than the class", and "or administered" after "being prepared".

Subsec. (f)(4)(B). Pub. L. 104-104, § 403(a)(2), (5), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: "The Commission, for purposes of administering any examination for an amateur station operator license, may accept and employ the voluntary and uncompensated services of any individual who holds an amateur station operator license of a higher class than the class license for which the examination is being conducted. In the case of examinations for the highest class of amateur station operator license, the Commission may accept and employ such services of any individual who holds such class of license. Any person who owns a significant interest in, or is an employee of, any company or other entity which is engaged in the manufacture or distribution of equipment used in connection with amateur radio transmissions, or in the preparation or distribution of any publication used in preparation for obtaining amateur station operator licenses, shall not be eligible to render any service under this subparagraph."

Subsec. (f)(4)(C) to (G). Pub. L. 104-104, § 403(a)(5), redesignated subpars. (D) to (H) as (C) to (G), respectively. Former subpar. (C) redesignated (B).

Subsec. (f)(4)(H). Pub. L. 104-104, § 403(a)(5), redesignated subpar. (I) as (H). Former subpar. (H) redesignated (G).

Pub. L. 104-104, § 403(a)(3), substituted "subparagraphs (A) and (B)" for "subparagraphs (A), (B), and (C)".

Subsec. (f)(4)(I). Pub. L. 104-104, § 403(a)(5), redesignated subpar. (J) as (I). Former subpar. (I) redesignated (H).

Subsec. (f)(4)(J). Pub. L. 104-104, § 403(a)(4), (5), redesignated subpar. (J) as (I) and substituted "subparagraph (A) of this paragraph" for "subparagraph (A) or (B) of this paragraph" and struck out last sentence which read as follows: "The total amount of allowable cost reimbursement per examinee shall not exceed \$4, adjusted annually every January 1 for changes in the Department of Labor Consumer Price Index."

1995—Subsec. (f)(4)(J). Pub. L. 104-66 struck out at end "Such individuals and organizations shall maintain records of out-of-pocket expenditures and shall certify annually to the Commission that all costs for which reimbursement was obtained were necessarily and prudently incurred."

1994—Subsec. (f)(3). Pub. L. 103-414 substituted "overtime extends beyond" for "overtime exceeds beyond".

1992—Subsec. (g)(2)(D). Pub. L. 102-538, § 201, substituted "1994" for "1992".

Subsec. (g)(3). Pub. L. 102-538, § 208, added par. (3).

1990—Subsec. (f)(5). Pub. L. 101-396, § 3, added par. (5). Subsec. (g)(2)(D). Pub. L. 101-396, § 4, substituted "1992" for "1989".

1988—Subsec. (g)(2)(D). Pub. L. 100-594 substituted "1989" for "1987".

1986—Subsec. (c). Pub. L. 99-334 substituted "five years" for "seven years".

Subsec. (g)(2)(D). Pub. L. 99-272, § 5002(b)(1), substituted "1987" for "1985".

Subsec. (g)(2)(E). Pub. L. 99-272, § 5002(b)(2), added subpar. (E).

1983—Subsec. (f)(4)(E) to (I). Pub. L. 98-214, § 10, added subpar. (E) and redesignated existing subpars. (E) to (H) as (F) to (I), respectively.

Subsec. (f)(4)(J). Pub. L. 98-214, § 11, added subpar. (J).

1982—Subsec. (a). Pub. L. 97-253, § 501(b)(1), substituted "five" for "seven".

Subsec. (b). Pub. L. 97-259, § 102, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Each member of the Commission shall be a citizen of the United States. No member of the Commission or person in its employ shall be financially interested in the manufacture or sale of radio apparatus or of apparatus for wire or radio communication; in communication by wire or radio or in radio transmission of energy; in any company furnishing services or such apparatus to any company engaged in communication by wire or radio or to any company manufacturing or selling apparatus used for communication by wire or radio; or in any company owning stocks, bonds, or other securities of any such company; nor be in the employ of or hold any official relation to any person subject to any of the provisions of this chapter, nor own stocks, bonds, or other securities of any corporation subject to any of the provisions of this chapter. Such commissioners shall not engage in any other business, vocation, profession, or employment. Any such commissioner serving as such after one year from July 16, 1952, shall not for a period of one year following the termination of his services as a commissioner represent any person before the Commission in a professional capacity, except that this restriction shall not apply to any commissioner who has served the full term for which he was appointed. Not more than four members of the Commission shall be members of the same political party."

Pub. L. 97-253, § 501(b)(2), amended last sentence of subsec. (b), prior to the general amendment by Pub. L. 97-259, by substituting language identical to that contained in par. (5), as added by Pub. L. 97-259.

Subsec. (c). Pub. L. 97-259, § 103(a), struck out "The" before "commissioners" at beginning of subsection, immediately thereafter struck out "first appointed under this chapter shall continue in office for the terms of one, two, three, four, five, six, and seven years, respectively, from the date of the taking effect of this chapter, the term of each to be designated by the President, but their successors", and substituted "been confirmed and taken the oath of office" for "qualified".

Subsec. (d). Pub. L. 97-259, §103(b), amended subsec. (d) generally, relating to the annual salary rate for the Chairman and Commissioners.

Subsec. (f)(2). Pub. L. 97-259, §103(c), substituted "three professional assistants" for "a legal assistant, an engineering assistant."

Subsec. (f)(4). Pub. L. 97-259, §104, added par. (4).

Subsec. (g). Pub. L. 97-259, §103(d), designated existing provisions as par. (1) and added par. (2).

Subsec. (h). Pub. L. 97-253, §501(b)(3), substituted "Three" for "Four".

Subsec. (k)(2). Pub. L. 97-259, §103(e), struck out proviso after "its staff and equipment", relating to the content of first and second annual reports after the enactment of the Communications Act Amendments of 1952.

Subsec. (k)(3). Pub. L. 97-259, §103(f), redesignated par. (4) as (3).

Subsec. (k)(4), (5). Pub. L. 97-259, §103(f), (g), redesignated par. (5) as (4) and substituted "Office of Management and Budget" for "Bureau of the Budget". Former par. (4) redesignated (3).

1981—Subsec. (g). Pub. L. 97-35 substituted requirement respecting authorizations under section 156 of this title, for provisions respecting appropriations from time to time.

1960—Subsec. (b). Pub. L. 86-752 struck out provision that permitted commissioners to accept "reasonable honorarium or compensation" for "the presentation or delivery of publications or papers".

Subsec. (c). Pub. L. 86-619 provided for continuation in office of the commissioners upon termination of their term until their successors are appointed and have qualified, not beyond expiration of next session of Congress subsequent to the expiration of said fixed term of office.

Subsec. (k)(3). Pub. L. 86-533 repealed par. (3) which required the report to contain information with respect to all persons taken into the employment of the Commission during the preceding year, together with the names of those persons who left the employ of the Commission during the year.

1954—Subsec. (f)(3). Act Aug. 13, 1954, substituted "engineers" for "inspectors" and "Field Engineering and Monitoring Bureau of the Federal Communications Commission" for "Field Division of the Engineering Department of the Federal Communications Commission" and extended provisions to include inspections required pursuant to the Great Lakes Agreement.

1952—Subsec. (b). Act July 16, 1952, §3(a), prohibited commissioners from engaging in any other work except that they may present or deliver papers for an honorarium, and prohibited any commissioner from appearing before the Commission in a professional capacity for 1 year after termination of his services except that this prohibition would not apply where commissioner has completed his full term.

Subsec. (f). Act July 16, 1952, §3(b), authorized Commission to appoint employees, allowed each commissioner to appoint a legal assistant, and a secretary, and allowed the Chairman to appoint an administrative assistant.

Subsec. (g). Act July 16, 1952, §3(c), authorized Commission to acquire land for monitoring stations and related facilities.

Subsec. (k). Act July 16, 1952, §3(d), required Commission to make more detailed reports to Congress.

1941—Subsec. (f). Act Mar. 23, 1941, designated existing provisions as par. (1) and added par. (2).

1937—Subsec. (k). Act May 20, 1937, inserted provisions that the Commission report to Congress annually at the beginning session of the Congress whether new wire or radio communication legislation is necessary and make specific recommendations thereof to Congress.

Subsec. (o). Act May 20, 1937, added subsec. (o).

1936—Subsec. (f). Act Jan. 22, 1936, inserted references to a chief accountant and three assistants.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-334, §1(b), June 6, 1986, 100 Stat. 513, provided that: "The amendment made by subsection (a) of

this section [amending this section] shall take effect on the date of enactment of this Act [June 6, 1986, except that—

"(1) upon the expiration of the term of office prescribed by law to occur on June 30, 1986, any person appointed as a member of the Federal Communications Commission to fill such office for the term following such date shall be eligible to serve until June 30, 1990, and any person appointed as a member of the Federal Communications Commission to the term of office prescribed by law to expire on June 30, 1987, shall be eligible to serve until June 30, 1989; and

"(2) notwithstanding the provisions of subsection (a) of this section [amending this section], persons appointed as members of the Federal Communications Commission to terms of office prescribed by law to expire on June 30, 1988, June 30, 1991, and June 30, 1992, shall be eligible to serve until the expiration of the term of office on June 30, 1988, June 30, 1991, and June 30, 1992, whichever is applicable."

#### EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-253, title V, §501(b)(4), Sept. 8, 1982, 96 Stat. 806, provided that: "The amendments made in paragraphs (1), (2), and (3) of this subsection [amending this section] shall take effect on July 1, 1983."

#### EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 13, 1954, effective Nov. 13, 1954, see section 6 of act Aug. 13, 1954, set out as an Effective Date note under section 507 of this title.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsecs. (g)(2)(C) and (k) of this section relating to requirements to submit regular periodic reports to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 5th and 9th items on page 167 of House Document No. 103-7.

#### TRANSFER OF FUNCTIONS

All offices of collector of customs, referred to in subsec. (f)(3), in Bureau of Customs of Department of the Treasury to which appointments were required to be made by President with advice and consent of Senate ordered abolished with such offices to be terminated not later than Dec. 31, 1966, by Reorg. Plan No. 1 of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of offices eliminated were already vested in Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

#### EFFECT ON AUTHORITY OF FEDERAL COMMUNICATIONS COMMISSION

Pub. L. 115-141, div. P, title IV, §403, Mar. 23, 2018, 132 Stat. 1090, provided that: "Nothing in this title [see Tables for classification] or the amendments made by this title shall be construed to expand or contract the authority of the Commission [Federal Communications Commission]."

#### ADDITIONAL REPORTS

Pub. L. 115-141, div. P, title IV, §404, Mar. 23, 2018, 132 Stat. 1090, provided that: "Nothing in this title [see Tables for classification] or the amendments made by this title shall be construed to prohibit or otherwise prevent the Commission from producing any additional reports otherwise within the authority of the Commission [Federal Communications Commission]."

#### OLDER AMERICANS PROGRAM

Pub. L. 100-594, §6, Nov. 3, 1988, 102 Stat. 3021, as amended by Pub. L. 101-396, §5, Sept. 28, 1990, 104 Stat. 849; Pub. L. 102-538, title II, §212, Oct. 27, 1992, 106 Stat. 3545, provided that:

“(a) During fiscal years 1992 and 1993, the Federal Communications Commission is authorized to make grants to, or enter into cooperative agreements with, private nonprofit organizations designated by the Secretary of Labor under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.) to utilize the talents of older Americans in programs authorized by other provisions of law administered by the Commission (and consistent with such provisions of law) in providing technical and administrative assistance for projects related to the implementation, promotion, or enforcement of the regulations of the Commission.

“(b) Prior to awarding any grant or entering into any agreement under subsection (a), the Office of the Managing Director of the Commission shall certify to the Commission that such grant or agreement will not—

“(1) result in the displacement of individuals currently employed by the Commission;

“(2) result in the employment of any individual when any other individual is on layoff status from the same or a substantially equivalent job within the jurisdiction of the Commission; or

“(3) affect existing contracts for services.

“(c) Participants in any program under a grant or cooperative agreement pursuant to this section shall—

“(1) execute a signed statement with the Commission in which such participants certify that they will adhere to the standards of conduct prescribed for regular employees of the Commission, as set forth in part 19 of title 47, Code of Federal Regulations; and

“(2) execute a confidential statement of employment and financial interest (Federal Communications Commission Form A-54) prior to commencement of work under the program.

Failure to comply with the terms of the signed statement described in paragraph (1) shall result in termination of the individual under the grant or agreement.

“(d) Nothing in this section shall be construed to permit employment of any such participant in any decisionmaking or policymaking position.

“(e) Grants or agreements under this section shall be subject to prior appropriation Acts.”

#### EXPIRATION OF COMMISSIONERS' TERMS

Pub. L. 97-253, title V, § 501(a), Sept. 8, 1982, 96 Stat. 805, provided that: “Upon expiration of the term of office as a member of the Federal Communications Commission, which is prescribed by law to occur on June 30, 1982, any member appointed to fill such office after such date shall be appointed for a term which ends on June 30, 1983, and such office shall be abolished on July 1, 1983. Upon expiration of the term of office as a member of such Commission, which—

“(1) is prescribed by law;

“(2) is in effect before the date of the enactment of this Act [Sept. 8, 1982]; and

“(3) is to occur on June 30, 1983;

no person shall be appointed to fill such office after such date, and such office shall be abolished on July 1, 1983.”

### § 155. Commission

#### (a) Chairman; duties; vacancy

The member of the Commission designated by the President as chairman shall be the chief executive officer of the Commission. It shall be his duty to preside at all meetings and sessions of the Commission, to represent the Commission in all matters relating to legislation and legislative reports, except that any commissioner may present his own or minority views or supplemental reports, to represent the Commission in all matters requiring conferences or communications with other governmental officers, departments or agencies, and generally to coordinate and organize the work of the Commission in such manner as to promote prompt and effi-

cient disposition of all matters within the jurisdiction of the Commission. In the case of a vacancy in the office of the chairman of the Commission, or the absence or inability of the chairman to serve, the Commission may temporarily designate one of its members to act as chairman until the cause or circumstance requiring such designation shall have been eliminated or corrected.

#### (b) Organization of staff

From time to time as the Commission may find necessary, the Commission shall organize its staff into (1) integrated bureaus, to function on the basis of the Commission's principal workload operations, and (2) such other divisional organizations as the Commission may deem necessary. Each such integrated bureau shall include such legal, engineering, accounting, administrative, clerical, and other personnel as the Commission may determine to be necessary to perform its functions.

#### (c) Delegation of functions; exceptions to initial orders; force, effect and enforcement of orders; administrative and judicial review; qualifications and compensation of delegates; assignment of cases; separation of review and investigative or prosecuting functions; secretary; seal

(1) When necessary to the proper functioning of the Commission and the prompt and orderly conduct of its business, the Commission may, by published rule or by order, delegate any of its functions (except functions granted to the Commission by this paragraph and by paragraphs (4), (5), and (6) of this subsection and except any action referred to in sections 204(a)(2), 208(b), and 405(b) of this title) to a panel of commissioners, an individual commissioner, an employee board, or an individual employee, including functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter; except that in delegating review functions to employees in cases of adjudication (as defined in section 551 of title 5), the delegation in any such case may be made only to an employee board consisting of two or more employees referred to in paragraph (8) of this subsection. Any such rule or order may be adopted, amended, or rescinded only by a vote of a majority of the members of the Commission then holding office. Except for cases involving the authorization of service in the instructional television fixed service, or as otherwise provided in this chapter, nothing in this paragraph shall authorize the Commission to provide for the conduct, by any person or persons other than persons referred to in paragraph (2) or (3) of section 556(b) of title 5, of any hearing to which such section applies.

(2) As used in this subsection the term “order, decision, report, or action” does not include an initial, tentative, or recommended decision to which exceptions may be filed as provided in section 409(b) of this title.

(3) Any order, decision, report, or action made or taken pursuant to any such delegation, unless reviewed as provided in paragraph (4) of this subsection, shall have the same force and effect, and shall be made, evidenced, and enforced in the same manner, as orders, decisions, reports, or other actions of the Commission.

(4) Any person aggrieved by any such order, decision, report or action may file an application for review by the Commission within such time and in such manner as the Commission shall prescribe, and every such application shall be passed upon by the Commission. The Commission, on its own initiative, may review in whole or in part, at such time and in such manner as it shall determine, any order, decision, report, or action made or taken pursuant to any delegation under paragraph (1) of this subsection.

(5) In passing upon applications for review, the Commission may grant, in whole or in part, or deny such applications without specifying any reasons therefor. No such application for review shall rely on questions of fact or law upon which the panel of commissioners, individual commissioner, employee board, or individual employee has been afforded no opportunity to pass.

(6) If the Commission grants the application for review, it may affirm, modify, or set aside the order, decision, report, or action, or it may order a rehearing upon such order, decision, report, or action in accordance with section 405 of this title.

(7) The filing of an application for review under this subsection shall be a condition precedent to judicial review of any order, decision, report, or action made or taken pursuant to a delegation under paragraph (1) of this subsection. The time within which a petition for review must be filed in a proceeding to which section 402(a) of this title applies, or within which an appeal must be taken under section 402(b) of this title, shall be computed from the date upon which public notice is given of orders disposing of all applications for review filed in any case.

(8) The employees to whom the Commission may delegate review functions in any case of adjudication (as defined in section 551 of title 5) shall be qualified, by reason of their training, experience, and competence, to perform such review functions, and shall perform no duties inconsistent with such review functions. Such employees shall be in a grade classification or salary level commensurate with their important duties, and in no event less than the grade classification or salary level of the employee or employees whose actions are to be reviewed. In the performance of such review functions such employees shall be assigned to cases in rotation so far as practicable and shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions for any agency.

(9) The secretary and seal of the Commission shall be the secretary and seal of each panel of the Commission, each individual commissioner, and each employee board or individual employee exercising functions delegated pursuant to paragraph (1) of this subsection.

#### (d) Meetings

Meetings of the Commission shall be held at regular intervals, not less frequently than once each calendar month, at which times the functioning of the Commission and the handling of its work load shall be reviewed and such orders shall be entered and other action taken as may

be necessary or appropriate to expedite the prompt and orderly conduct of the business of the Commission with the objective of rendering a final decision (1) within three months from the date of filing in all original application, renewal, and transfer cases in which it will not be necessary to hold a hearing, and (2) within six months from the final date of the hearing in all hearing cases.

#### (e) Managing Director; appointment, functions, pay

The Commission shall have a Managing Director who shall be appointed by the Chairman subject to the approval of the Commission. The Managing Director, under the supervision and direction of the Chairman, shall perform such administrative and executive functions as the Chairman shall delegate. The Managing Director shall be paid at a rate equal to the rate then payable for level V of the Executive Schedule.

(June 19, 1934, ch. 652, title I, § 5, 48 Stat. 1068; July 16, 1952, ch. 879, § 4, 66 Stat. 712; Pub. L. 87-192, §§ 1, 2, Aug. 31, 1961, 75 Stat. 420; Pub. L. 96-470, title I, § 116, Oct. 19, 1980, 94 Stat. 2240; Pub. L. 97-35, title XII, § 1252, Aug. 13, 1981, 95 Stat. 738; Pub. L. 97-259, title I, § 105, Sept. 13, 1982, 96 Stat. 1091; Pub. L. 99-272, title V, § 5002(c), Apr. 7, 1986, 100 Stat. 118; Pub. L. 100-594, §§ 4, 8(a), Nov. 3, 1988, 102 Stat. 3021, 3023; Pub. L. 103-414, title III, § 303(a)(2), Oct. 25, 1994, 108 Stat. 4294; Pub. L. 104-104, title IV, § 403(c), Feb. 8, 1996, 110 Stat. 130.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(1), was in the original "this Act", meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

Level V of the Executive Schedule, referred to in subsec. (e), is set out in section 5316 of Title 5, Government Organization and Employees.

#### CODIFICATION

In subsec. (c)(1), (8), "adjudication (as defined in section 551 of title 5)" substituted for "adjudication (as defined in the Administrative Procedure Act)", and in subsec. (c)(1) "section 556(b) of title 5" substituted for references to "section 7(a) of the Administrative Procedure Act", on authority of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

#### AMENDMENTS

1996—Subsec. (c)(1). Pub. L. 104-104 inserted last sentence and struck out former last sentence which read as follows: "Nothing in this paragraph shall authorize the Commission to provide for the conduct, by any person or persons other than persons referred to in clauses (2) and (3) of section 556(b) of title 5, of any hearing to which such section 556(b) applies."

1994—Subsecs. (e), (f). Pub. L. 103-414 redesignated subsec. (f) as (e).

1988—Subsec. (c)(1). Pub. L. 100-594, § 8(a), inserted "and except any action referred to in sections 204(a)(2), 208(b), and 405(b) of this title" after "and (6) of this subsection" in first sentence.

Subsec. (g). Pub. L. 100-594, § 4, struck out subsec. (g) which required an annual report to Congress and specified its contents.

1986—Subsec. (g). Pub. L. 99-272 substituted "March 31" for "January 31".

1982—Subsec. (b). Pub. L. 97-259, § 105(a), substituted "From" for "Within six months after July 16, 1952, and

from” at beginning of subsection, and struck out “thereafter” after “time to time”.

Subsecs. (c) to (e). Pub. L. 97-259, §105(b), (c), redesignated subsecs. (d) and (e) as (c) and (d), respectively, and in par. (1) of subsec. (c), as so redesignated, substituted “two” for “three” after “employee board consisting of”.

1981—Subsecs. (f), (g). Pub. L. 97-35 added subsecs. (f) and (g).

1980—Subsec. (e). Pub. L. 96-470 struck out “; and the Commission shall promptly report to the Congress each such case which has been pending before it more than such three- or six-month period, respectively, stating the reasons therefor” after “hearing cases”.

1961—Subsec. (c). Pub. L. 87-192, §1, repealed subsec. (c) which provided for establishment of review staff, its composition, responsibility and duties.

Subsec. (d)(1). Pub. L. 87-192, §2, substituted provisions which authorized the delegation of functions by published rule or by order to a panel of commissioners, and individual commissioner, an employee board, or an individual employee, and of review functions to an employee board of three or more employees, enumerated the functions to be delegated, with stated exceptions, and prescribed majority vote for order delegating review functions for former provision which authorized the assignment of reference of work, business or functions by order to an individual commissioner or commissioners or to a board of one or more employees and eliminated provision concerning force, effect and enforcement of orders, now incorporated in par. (3) of this subsection.

Subsec. (d)(2). Pub. L. 87-192, §2, added par. (2). The subject matter was formerly covered by the introductory words of former par. (1) of this subsection which read “Except as provided in section 409 of this title.” Sentences 1 and 2 of former par. (2) redesignated pars. (4) and (6), respectively.

Subsec. (d)(3). Pub. L. 87-192, §2, redesignated second sentence of former par. (1) as par. (3) and substituted therein “report, or action made or taken pursuant to any such delegation, unless reviewed as provided in paragraph (4), shall have” and “other actions” for “report made, or other action taken, pursuant to any such order of assignment or reference shall, unless reviewed pursuant to paragraph (2), have” and “action”, respectively. Former par. (3) redesignated (9).

Subsec. (d)(4). Pub. L. 87-192, §2, redesignated first sentence of former par. (2) as par. (4), included “action” in enumeration, and inserted provision for review on initiative of the Commission.

Subsec. (d)(5). Pub. L. 87-192, §2, added par. (5).

Subsec. (d)(6). Pub. L. 87-192, §2, redesignated second sentence of former par. (2) as par. (6), inserting “for review” after “applications” and substituting “the Commission”, “the order”, “it may order” and “in accordance with” for “it”, “such order”, “may order” and “under”, respectively.

Subsec. (d)(7), (8). Pub. L. 87-192, §2, added pars. (7) and (8).

Subsec. (d)(9). Pub. L. 87-192, §2, redesignated former par. (3) as (9) and made it applicable to each panel of the Commission, each employee board instead of each board, and each individual employee.

1952—Act July 16, 1952, amended section generally to provide for the organization of the staff, integrated bureaus, and for a review staff.

### § 155a. Authority of Chief Information Officer

#### (a) In general

The Commission shall ensure that the Chief Information Officer of the Commission has a significant role in—

(1) the decision-making process for annual and multi-year planning, programming, budgeting, and execution decisions, related reporting requirements, and reports related to information technology;

(2) the management, governance, and oversight processes related to information technology; and

(3) the hiring of personnel with information technology responsibilities.

#### (b) CIO approval

The Chief Information Officer of the Commission, in consultation with the Chief Financial Officer of the Commission and budget officials, shall specify and approve the allocation of amounts appropriated to the Commission for information technology, consistent with the provisions of appropriations Acts, budget guidelines, and recommendations from the Director of the Office of Management and Budget.

(Pub. L. 115-141, div. P, title V, §502, Mar. 23, 2018, 132 Stat. 1091.)

#### CODIFICATION

Section was enacted as part of the Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018, also known as the RAY BAUM'S Act of 2018, and also as part of the Consolidated Appropriations Act, 2018, and not as part of the Communications Act of 1934 which comprises this chapter.

#### DEFINITION

Pub. L. 115-141, div. P, §2, Mar. 23, 2018, 132 Stat. 1081, provided that: “In this division [see Short Title of 2018 Amendment note set out under section 609 of this title], the term ‘Commission’ means the Federal Communications Commission.”

### § 156. Authorization of appropriations

#### (a) Authorization

There are authorized to be appropriated to the Commission to carry out the functions of the Commission \$333,118,000 for fiscal year 2019 and \$339,610,000 for fiscal year 2020.

#### (b) Offsetting collections

The sum appropriated in any fiscal year to carry out the activities described in subsection (a), to the extent and in the amounts provided for in Appropriations Acts, shall be derived from fees authorized by section 159 of this title.

(June 19, 1934, ch. 652, title I, §6, as added Pub. L. 97-35, title XII, §1251(a), Aug. 13, 1981, 95 Stat. 738; amended Pub. L. 98-214, §2(a), Dec. 8, 1983, 97 Stat. 1467; Pub. L. 99-272, title V, §5002(a)(1), Apr. 7, 1986, 100 Stat. 117; Pub. L. 100-594, §2(a), Nov. 3, 1988, 102 Stat. 3021; Pub. L. 101-396, §2(a), Sept. 28, 1990, 104 Stat. 848; Pub. L. 103-66, title VI, §6003(b), Aug. 10, 1993, 107 Stat. 401; Pub. L. 115-141, div. P, title I, §101(a), Mar. 23, 2018, 132 Stat. 1081.)

#### AMENDMENTS

2018—Pub. L. 115-141 amended section generally. Prior to amendment, section related to authorization of appropriations for fiscal years 1990 and 1991.

1993—Subsec. (d). Pub. L. 103-66 added subsec. (d).

1990—Pub. L. 101-396 amended section generally. Prior to amendment, section read as follows: “There are authorized to be appropriated for the administration of this chapter by the Commission \$107,250,000 for fiscal year 1988 and \$109,250,000 for fiscal year 1989, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1988 and 1989.”

1988—Pub. L. 100-594 amended section generally. Prior to amendment, section read as follows: “There are authorized to be appropriated for the administration of this chapter by the Commission \$98,100,000 for fiscal year 1986 and \$97,600,000 for fiscal year 1987, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1986 and 1987.”

1986—Pub. L. 99-272 amended section generally. Prior to amendment, section read as follows: “There are authorized to be appropriated for the administration of this chapter by the Commission \$91,156,000, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1984 and 1985.”

1983—Pub. L. 98-214 substituted provisions authorizing appropriations of \$91,156,000 for each of the fiscal years 1984 and 1985 for provisions authorizing appropriations of \$76,900,000 for each of the fiscal years 1982 and 1983.

#### EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-141, div. P, title I, §103, Mar. 23, 2018, 132 Stat. 1086, provided that: “This title [enacting section 159a of this title, amending this section and sections 158, 159, and 309 of this title, enacting provisions set out as notes under sections 158 and 159 of this title, and repealing provisions set out as a note under this section] and the amendments made by this title shall take effect on October 1, 2018.”

#### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-594, §2(b), Nov. 3, 1988, 102 Stat. 3021, provided that: “The amendment made by subsection (a) of this section [amending this section] shall apply with respect to fiscal years beginning after September 30, 1987.”

#### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-272, title V, §5002(a)(2), Apr. 7, 1986, 100 Stat. 118, provided that: “The amendment made by paragraph (1) of this subsection [amending this section] shall apply with respect to fiscal years beginning after September 30, 1985.”

#### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-214, §2(b), Dec. 8, 1983, 97 Stat. 1467, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to fiscal years beginning after September 30, 1983.”

#### AUTHORIZATION OF APPROPRIATIONS

Pub. L. 104-104, title VII, §710(a), (b), Feb. 8, 1996, 110 Stat. 160, which authorized additional appropriations to the Federal Communications Commission, was repealed by Pub. L. 115-141, div. P, title I, §101(c)(1), Mar. 23, 2018, 132 Stat. 1082.

### § 157. New technologies and services

(a) It shall be the policy of the United States to encourage the provision of new technologies and services to the public. Any person or party (other than the Commission) who opposes a new technology or service proposed to be permitted under this chapter shall have the burden to demonstrate that such proposal is inconsistent with the public interest.

(b) The Commission shall determine whether any new technology or service proposed in a petition or application is in the public interest within one year after such petition or application is filed. If the Commission initiates its own

proceeding for a new technology or service, such proceeding shall be completed within 12 months after it is initiated.

(June 19, 1934, ch. 652, title I, §7, as added Pub. L. 98-214, §12, Dec. 8, 1983, 97 Stat. 1471; amended Pub. L. 103-414, title III, §304(a)(1), Oct. 25, 1994, 108 Stat. 4296.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

#### AMENDMENTS

1994—Subsec. (b). Pub. L. 103-414 struck out “or twelve months after December 8, 1983, if later” after “petition or application is filed” and after “12 months after it is initiated”.

#### ADVANCED TELECOMMUNICATIONS INCENTIVES

Pub. L. 104-104, title VII, §706, Feb. 8, 1996, 110 Stat. 153, as amended by Pub. L. 107-110, title X, §1076(gg), Jan. 8, 2002, 115 Stat. 2093; Pub. L. 110-385, title I, §103(a), Oct. 10, 2008, 122 Stat. 4096, was transferred and is classified to section 1302 of this title.

### § 158. Application fees

#### (a) General authority; establishment of schedule

The Commission shall assess and collect application fees at such rates as the Commission shall establish in a schedule of application fees to recover the costs of the Commission to process applications.

#### (b) Adjustment of schedule

##### (1) In general

In every even-numbered year, the Commission shall review the schedule of application fees established under this section and, except as provided in paragraph (2), set a new amount for each fee in the schedule that is equal to the amount of the fee on the date when the fee was established or the date when the fee was last amended under subsection (c), whichever is later—

- (A) increased or decreased by the percentage change in the Consumer Price Index during the period beginning on such date and ending on the date of the review; and
- (B) rounded to the nearest \$5 increment.

##### (2) Threshold for adjustment

The Commission may not adjust a fee under paragraph (1) if—

- (A) in the case of a fee the current amount of which is less than \$200, the adjustment would result in a change in the current amount of less than \$10; or
- (B) in the case of a fee the current amount of which is \$200 or more, the adjustment would result in a change in the current amount of less than 5 percent.

##### (3) Current amount defined

In paragraph (2), the term “current amount” means, with respect to a fee, the amount of the fee on the date when the fee was established, the date when the fee was last adjusted under paragraph (1), or the date when the fee



was last amended under subsection (c), whichever is latest.

**(c) Amendments to schedule**

In addition to the adjustments required by subsection (b), the Commission shall by rule amend the schedule of application fees established under this section if the Commission determines that the schedule requires amendment—

(1) so that such fees reflect increases or decreases in the costs of processing applications at the Commission; or

(2) so that such schedule reflects the consolidation or addition of new categories of applications.

**(d) Exceptions**

**(1) Parties to which fees are not applicable**

The application fees established under this section shall not be applicable to—

(A) a governmental entity;

(B) a nonprofit entity licensed in the Local Government, Police, Fire, Highway Maintenance, Forestry-Conservation, Public Safety, or Special Emergency Radio radio services; or

(C) a noncommercial radio station or noncommercial television station.

**(2) Cost of collection**

If, in the judgment of the Commission, the cost of collecting an application fee established under this section would exceed the amount collected, the Commission may by rule eliminate such fee.

**(e) Deposit of collections**

Moneys received from application fees established under this section shall be deposited in the general fund of the Treasury.

(June 19, 1934, ch. 652, title I, § 8, as added Pub. L. 99-272, title V, § 5002(e), Apr. 7, 1986, 100 Stat. 118; amended Pub. L. 100-594, § 5, Nov. 3, 1988, 102 Stat. 3021; Pub. L. 101-239, title III, § 3001(a), (b), Dec. 19, 1989, 103 Stat. 2124, 2131; Pub. L. 102-538, title II, § 209, Oct. 27, 1992, 106 Stat. 3544; Pub. L. 103-66, title VI, § 6003(a)(2), Aug. 10, 1993, 107 Stat. 401; Pub. L. 103-414, title III, §§ 302, 303(a)(3), (4), Oct. 25, 1994, 108 Stat. 4294; Pub. L. 115-141, div. P, title I, § 102(a), Mar. 23, 2018, 132 Stat. 1082.)

AMENDMENTS

2018—Pub. L. 115-141 amended section generally. Prior to amendment, section related to application fees.

1994—Subsec. (d)(2). Pub. L. 103-414, § 303(a)(3), substituted “payment of an” for “payment of a”.

Subsec. (g). Pub. L. 103-414, § 303(a)(4), substituted “Additional Application Fee” for “Additional Charge” in item 7.f. under heading “EQUIPMENT APPROVAL SERVICES/EXPERIMENTAL RADIO” in Schedule of Application Fees.

Pub. L. 103-414, § 302, added item 1.d. under heading “COMMON CARRIER SERVICES” in Schedule of Application Fees.

1993—Pub. L. 103-66, § 6003(a)(2)(A), substituted “Application fees” for “Charges” as section catchline.

Subsecs. (a) to (e). Pub. L. 103-66, § 6003(a)(2)(B)-(D), substituted “application fees” for “charges” and “Schedule of Application Fees” for “Schedule of Charges” wherever appearing, and substituted “application fee” for “charge” in subsec. (c).

Subsec. (g). Pub. L. 103-66, § 6003(a)(2)(D), in text substituted “Schedule of Application Fees” for “Schedule of Charges”.

Pub. L. 103-66, § 6003(a)(2)(E), which directed amendment of schedule by substituting “SCHEDULE OF APPLICATION FEES” for “SCHEDULE OF CHARGES”, “APPLICATION FEES” for “CHARGES”, “application fee” for “charge”, and “Application fees” for “Charges” was executed by substituting “SCHEDULE OF APPLICATION FEES” for “SCHEDULE OF CHARGES” in heading, “MISCELLANEOUS APPLICATION FEES” for “MISCELLANEOUS CHARGES” in last subheading, and “application fee” for “charge” in two places in text of schedule, to reflect probable intent of Congress.

1992—Subsec. (g). Pub. L. 102-538 in Schedule of Charges added twenty-second category, relating to Low-Earth Orbit Satellite Systems, under heading “COMMON CARRIER SERVICES”, and substituted “75.00” for “360.00” in item 3.c., relating to inspection of vessels under the Great Lakes Agreement, under heading “MISCELLANEOUS CHARGES”.

1989—Subsec. (a). Pub. L. 101-239, § 3001(b)(1), struck out at end “The Schedule of Charges established under this subsection shall be implemented not later than 360 days after April 7, 1986.”

Subsec. (b)(1). Pub. L. 101-239, § 3001(b)(2), substituted “October 1, 1991” for “April 1, 1987”.

Subsec. (d)(1). Pub. L. 101-239, § 3001(b)(3), substituted “(A) to governmental entities and nonprofit entities licensed in the following radio services:” for “to the following radio services:” and inserted “(B)” after “Emergency Radio, or”.

Subsec. (g). Pub. L. 101-239, § 3001(a), added subsec. (g). 1988—Subsec. (b)(1). Pub. L. 100-594 substituted “two years after April 1, 1987,” for “two years after April 7, 1986.”.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-141 effective Oct. 1, 2018, see section 103 of div. P of Pub. L. 115-141, set out as a note under section 156 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title III, § 3001(c), Dec. 19, 1989, 103 Stat. 2131, provided that: “The amendments made by this section [amending this section] shall take effect on the date of enactment of this Act [Dec. 19, 1989], and the Schedule of Charges required by the amendment made by subsection (a) of this section shall be implemented not later than 150 days after the date of enactment of this Act.”

TRANSITIONAL RULES FOR APPLICATION FEES

Pub. L. 115-141, div. P, title I, § 102(d)(1), Mar. 23, 2018, 132 Stat. 1085, provided that: “An application fee established under section 8 of the Communications Act of 1934 [47 U.S.C. 158], as such section is in effect on the day before the effective date described in section 103 of this title [Oct. 1, 2018], shall remain in effect under section 8 of the Communications Act of 1934, as amended by subsection (a) of this section, until such time as the Commission [Federal Communications Commission] adjusts or amends such fee under subsection (b) or (c) of such section 8, as so amended.”

SCHEDULE OF CHARGES

Section 5002(f) of Pub. L. 99-272 established the Schedule of Charges which the Federal Communications Commission is required to prescribe pursuant to subsec. (a) of this section. See subsec. (g) of this section as added by Pub. L. 101-239.

**§ 159. Regulatory fees**

**(a) General authority**

The Commission shall assess and collect regulatory fees to recover the costs of carrying out the activities described in section 156(a) of this title only to the extent, and in the total amounts, provided for in Appropriations Acts.

**(b) Establishment of schedule**

The Commission shall assess and collect regulatory fees at such rates as the Commission

shall establish in a schedule of regulatory fees that will result in the collection, in each fiscal year, of an amount that can reasonably be expected to equal the amounts described in subsection (a) with respect to such fiscal year.

**(c) Adjustment of schedule**

**(1) In general**

For each fiscal year, the Commission shall by rule adjust the schedule of regulatory fees established under this section to—

(A) reflect unexpected increases or decreases in the number of units subject to the payment of such fees; and

(B) result in the collection of the amount required by subsection (b).

**(2) Rounding**

In making adjustments under this subsection, the Commission may round fees to the nearest \$5 increment.

**(d) Amendments to schedule**

In addition to the adjustments required by subsection (c), the Commission shall by rule amend the schedule of regulatory fees established under this section if the Commission determines that the schedule requires amendment so that such fees reflect the full-time equivalent number of employees within the bureaus and offices of the Commission, adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities. In making an amendment under this subsection, the Commission may not change the total amount of regulatory fees required by subsection (b) to be collected in a fiscal year.

**(e) Exceptions**

**(1) Parties to which fees are not applicable**

The regulatory fees established under this section shall not be applicable to—

(A) a governmental entity or nonprofit entity;

(B) an amateur radio operator licensee under part 97 of the Commission's rules (47 CFR part 97); or

(C) a noncommercial radio station or noncommercial television station.

**(2) Cost of collection**

If, in the judgment of the Commission, the cost of collecting a regulatory fee established under this section from a party would exceed the amount collected from such party, the Commission may exempt such party from paying such fee.

**(f) Deposit of collections**

**(1) In general**

Amounts received from fees authorized by this section shall be deposited as an offsetting collection in, and credited to, the account through which funds are made available to carry out the activities described in section 156(a) of this title.

**(2) Deposit of excess collections**

Any regulatory fees collected in excess of the total amount of fees provided for in Appropriations Acts for a fiscal year shall be depos-

ited in the general fund of the Treasury of the United States for the sole purpose of deficit reduction.

(June 19, 1934, ch. 652, title I, § 9, as added Pub. L. 103-66, title VI, § 6003(a)(1), Aug. 10, 1993, 107 Stat. 397; amended Pub. L. 103-121, title I, Oct. 27, 1993, 107 Stat. 1167; Pub. L. 103-414, title III, § 303(a)(5), (6), Oct. 25, 1994, 108 Stat. 4294; Pub. L. 115-141, div. P, title I, § 102(b), Mar. 23, 2018, 132 Stat. 1083.)

AMENDMENTS

2018—Pub. L. 115-141 amended section generally. Prior to amendment, section related to regulatory fees.

1994—Subsec. (f). Pub. L. 103-414, § 303(a)(5), designated second sentence of par. (1) as par. (2) and inserted par. (2) heading.

Subsec. (g). Pub. L. 103-414, § 303(a)(6), inserted “95” after “(47 C.F.R. Part” in item pertaining to Interactive Video Data Service under Private Radio Bureau in Schedule of Regulatory Fees.

1993—Subsec. (a). Pub. L. 103-121 designated existing provisions as par. (1), inserted heading, and added par. (2).

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-141 effective Oct. 1, 2018, see section 103 of div. P of Pub. L. 115-141, set out as a note under section 156 of this title.

CONTINUED APPLICABILITY OF REGULATORY FEES

Pub. L. 115-141, div. P, title I, § 102(d)(2), Mar. 23, 2018, 132 Stat. 1086, provided that: “A regulatory fee established under section 9 of the Communications Act of 1934 [47 U.S.C. 159], as such section is in effect on the day before the effective date described in section 103 of this title [Oct. 1, 2018], shall remain in effect under section 9 of the Communications Act of 1934, as amended by subsection (b) of this section, until such time as the Commission [Federal Communications Commission] adjusts or amends such fee under subsection (c) or (d) of such section 9, as so amended.”

RULEMAKING TO AMEND SCHEDULE OF REGULATORY FEES

Pub. L. 115-141, div. P, title I, § 102(e)(1), Mar. 23, 2018, 132 Stat. 1086, provided that: “Not later than 1 year after the effective date described in section 103 of this title [Oct. 1, 2018], the Commission [Federal Communications Commission] shall complete a rulemaking proceeding under subsection (d) of section 9 of the Communications Act of 1934 [47 U.S.C. 159], as amended by subsection (b) of this section.”

**§ 159a. Provisions applicable to application and regulatory fees**

**(a) Judicial review prohibited**

Any adjustment or amendment to a schedule of fees under subsection (b) or (c) of section 158 of this title or subsection (c) or (d) of section 159 of this title is not subject to judicial review.

**(b) Notice to Congress**

The Commission shall transmit to Congress notification—

(1) of any adjustment under section 158(b) or 159(c) of this title immediately upon the adoption of such adjustment; and

(2) of any amendment under section 158(c) or 159(d) of this title not later than 90 days before the effective date of such amendment.

**(c) Enforcement**

**(1) Penalties for late payment**

The Commission shall by rule prescribe an additional penalty for late payment of fees

under section 158 or 159 of this title. Such additional penalty shall be 25 percent of the amount of the fee that was not paid in a timely manner.

**(2) Interest on unpaid fees and penalties**

The Commission shall charge interest, at a rate determined under section 3717 of title 31, on a fee under section 158 or 159 of this title or an additional penalty under this subsection that is not paid in a timely manner. Such section 3717 shall not otherwise apply with respect to such a fee or penalty.

**(3) Dismissal of applications or filings**

The Commission may dismiss any application or other filing for failure to pay in a timely manner any fee under section 158 or 159 of this title or any interest or additional penalty under this subsection.

**(4) Revocations**

**(A) In general**

In addition to or in lieu of the penalties and dismissals authorized by this subsection, the Commission may revoke any instrument of authorization held by any licensee that has not paid in a timely manner a regulatory fee assessed under section 159 of this title or any related interest or penalty.

**(B) Notice**

Revocation action may be taken by the Commission under this paragraph after notice of the Commission's intent to take such action is sent to the licensee by registered mail, return receipt requested, at the licensee's last known address. The notice shall provide the licensee at least 30 days to either pay the fee, interest, and any penalty or show cause why the fee, interest, or penalty does not apply to the licensee or should otherwise be waived or payment deferred.

**(C) Hearing**

**(i) Generally not required**

A hearing is not required under this paragraph unless the licensee's response presents a substantial and material question of fact.

**(ii) Evidence and burdens**

In any case where a hearing is conducted under this paragraph, the hearing shall be based on written evidence only, and the burden of proceeding with the introduction of evidence and the burden of proof shall be on the licensee.

**(iii) Costs**

Unless the licensee substantially prevails in the hearing, the Commission may assess the licensee for the costs of such hearing.

**(D) Opportunity to pay prior to revocation**

Any Commission order adopted under this paragraph shall determine the amount due, if any, and provide the licensee with at least 30 days to pay that amount or have its authorization revoked.

**(E) Finality**

No order of revocation under this paragraph shall become final until the licensee

has exhausted its right to judicial review of such order under section 402(b)(5) of this title.

**(d) Waiver, reduction, and deferment**

The Commission may waive, reduce, or defer payment of a fee under section 158 or 159 of this title or an interest charge or penalty under this section in any specific instance for good cause shown, where such action would promote the public interest.

**(e) Payment rules**

The Commission shall by rule permit payment—

(1) in the case of fees under section 158 or 159 of this title in large amounts, by installments; and

(2) in the case of fees under section 158 or 159 of this title in small amounts, in advance for a number of years not to exceed the term of the license held by the payor.

**(f) Accounting system**

The Commission shall develop accounting systems necessary to make the amendments authorized by sections 158(c) and 159(d) of this title.

(June 19, 1934, ch. 652, title I, §9A, as added Pub. L. 115-141, div. P, title I, §102(c), Mar. 23, 2018, 132 Stat. 1084.)

EFFECTIVE DATE

Section effective Oct. 1, 2018, see section 103 of div. P of Pub. L. 115-141, set out as an Effective Date of 2018 Amendment note under section 156 of this title.

**§ 160. Competition in provision of telecommunications service**

**(a) Regulatory flexibility**

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

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

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

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

**(b) Competitive effect to be weighed**

In making the determination under subsection (a)(3), the Commission shall consider whether forbearance from enforcing the provision or regulation will promote competitive market conditions, including the extent to which such forbearance will enhance competition among providers of telecommunications services. If the Commission determines that such forbearance

will promote competition among providers of telecommunications services, that determination may be the basis for a Commission finding that forbearance is in the public interest.

**(c) Petition for forbearance**

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

**(d) Limitation**

Except as provided in section 251(f) of this title, the Commission may not forbear from applying the requirements of section 251(c) or 271 of this title under subsection (a) of this section until it determines that those requirements have been fully implemented.

**(e) State enforcement after Commission forbearance**

A State commission may not continue to apply or enforce any provision of this chapter that the Commission has determined to forbear from applying under subsection (a).

(June 19, 1934, ch. 652, title I, §10, as added Pub. L. 104-104, title IV, §401, Feb. 8, 1996, 110 Stat. 128.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (e), was in the original “this Act”, meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

**§ 161. Regulatory reform**

**(a) Biennial review of regulations**

In every even-numbered year (beginning with 1998), the Commission—

(1) shall review all regulations issued under this chapter in effect at the time of the review that apply to the operations or activities of any provider of telecommunications service; and

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

**(b) Effect of determination**

The Commission shall repeal or modify any regulation it determines to be no longer necessary in the public interest.

(June 19, 1934, ch. 652, title I, §11, as added Pub. L. 104-104, title IV, §402(a), Feb. 8, 1996, 110 Stat. 129.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original “this Act”, meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

**§ 162. Additional research authorities of the FCC**

In order to carry out the purposes of this chapter, the Commission may—

(1) undertake research and development work in connection with any matter in relation to which the Commission has jurisdiction; and

(2) promote the carrying out of such research and development by others, or otherwise to arrange for such research and development to be carried out by others.

(June 19, 1934, ch. 652, title I, §12, as added Pub. L. 111-358, title VIII, §803, Jan. 4, 2011, 124 Stat. 4043.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

**§ 163. Communications marketplace report**

**(a) In general**

In the last quarter of every even-numbered year, the Commission shall publish on its website and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the state of the communications marketplace.

**(b) Contents**

Each report required by subsection (a) shall—

(1) assess the state of competition in the communications marketplace, including competition to deliver voice, video, audio, and data services among providers of telecommunications, providers of commercial mobile service (as defined in section 332 of this title), multichannel video programming distributors (as defined in section 522 of this title), broadcast stations, providers of satellite communications, Internet service providers, and other providers of communications services;

(2) assess the state of deployment of communications capabilities, including advanced telecommunications capability (as defined in section 1302 of this title), regardless of the technology used for such deployment;

(3) assess whether laws, regulations, regulatory practices (whether those of the Federal Government, States, political subdivisions of States, Indian tribes or tribal organizations (as such terms are defined in section 5304 of title 25), or foreign governments), or demonstrated marketplace practices pose a barrier to competitive entry into the communications marketplace or to the competitive expansion of existing providers of communications services;

(4) describe the agenda of the Commission for the next 2-year period for addressing the challenges and opportunities in the communications marketplace that were identified through the assessments under paragraphs (1) through (3); and

(5) describe the actions that the Commission has taken in pursuit of the agenda described pursuant to paragraph (4) in the previous report submitted under this section.

**(c) Extension**

If the President designates a Commissioner as Chairman of the Commission during the last quarter of an even-numbered year, the portion of the report required by subsection (b)(4) may be published on the website of the Commission and submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate as an addendum during the first quarter of the following odd-numbered year.

**(d) Special requirements**

**(1) Assessing competition**

In assessing the state of competition under subsection (b)(1), the Commission shall consider all forms of competition, including the effect of intermodal competition, facilities-based competition, and competition from new and emergent communications services, including the provision of content and communications using the Internet.

**(2) Assessing deployment**

In assessing the state of deployment under subsection (b)(2), the Commission shall compile a list of geographical areas that are not served by any provider of advanced telecommunications capability.

**(3) Considering small businesses**

In assessing the state of competition under subsection (b)(1) and regulatory barriers under subsection (b)(3), the Commission shall consider market entry barriers for entrepreneurs and other small businesses in the communications marketplace in accordance with the national policy under section 257(b) of this title.

(June 19, 1934, ch. 652, title I, §13, as added Pub. L. 115-141, div. P, title IV, §401, Mar. 23, 2018, 132 Stat. 1087.)

SUBCHAPTER II—COMMON CARRIERS

PART I—COMMON CARRIER REGULATION

**§ 201. Service and charges**

(a) It shall be the duty of every common carrier engaged in interstate or foreign communication by wire or radio to furnish such communication service upon reasonable request therefor; and, in accordance with the orders of the Commission, in cases where the Commission, after opportunity for hearing, finds such action necessary or desirable in the public interest, to establish physical connections with other carriers, to establish through routes and charges applicable thereto and the divisions of such charges, and to establish and provide facilities and regulations for operating such through routes.

(b) All charges, practices, classifications, and regulations for and in connection with such communication service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is declared to be unlawful: *Provided*, That communications by wire or radio subject to this chapter may be classified into day, night, repeated, unrepeated, letter, commercial, press, Government, and such other classes as the Commission may decide to be just and reasonable, and different charges may be made for the different classes of communications: *Provided further*, That nothing in this chapter or in any other provision of law shall be construed to prevent a common carrier subject to this chapter from entering into or operating under any contract with any common carrier not subject to this chapter, for the exchange of their services, if the Commission is of the opinion that such contract is not contrary to the public interest: *Provided further*, That nothing in this chapter or in any other provision of law shall prevent a common carrier subject to this chapter from furnishing reports of positions of ships at sea to newspapers of general circulation, either at a nominal charge or without charge, provided the name of such common carrier is displayed along with such ship position reports. The Commission may prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this chapter.

(June 19, 1934, ch. 652, title II, § 201, 48 Stat. 1070; May 31, 1938, ch. 296, 52 Stat. 588.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original “this Act”, meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

AMENDMENTS

1938—Subsec. (b). Act May 31, 1938, inserted proviso relating to reports of positions of ships at sea.

TELEPHONE RATES FOR MEMBERS OF ARMED FORCES  
DEPLOYED ABROAD

Pub. L. 109-459, §2, Dec. 22, 2006, 120 Stat. 3399, provided that:

“(a) IN GENERAL.—The Federal Communications Commission shall take such action as may be necessary to reduce the cost of calling home for Armed Forces personnel who are stationed outside the United States under official military orders or deployed outside the United States in support of military operations, training exercises, or other purposes as approved by the Secretary of Defense, including the reduction of such costs through the waiver of government fees, assessments, or other charges for such calls. The Commission may not regulate rates in order to carry out this section.

“(b) FACTORS TO CONSIDER.—In taking the action described in subsection (a), the Commission, in coordination with the Department of Defense and the Department of State, shall—

“(1) evaluate and analyze the costs to Armed Forces personnel of such telephone calls to and from American military bases abroad;

“(2) evaluate methods of reducing the rates imposed on such calls, including deployment of new technology such as voice over Internet protocol or other Internet protocol technology;

“(3) encourage telecommunications carriers (as defined in section 3(44) of the Communications Act of