

106TH CONGRESS  
1ST SESSION

# S. 1121

To amend the Clayton Act to enhance the authority of the Attorney General to prevent certain mergers and acquisitions that would unreasonably limit competition.

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## IN THE SENATE OF THE UNITED STATES

MAY 25, 1999

Mr. LEAHY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend the Clayton Act to enhance the authority of the Attorney General to prevent certain mergers and acquisitions that would unreasonably limit competition.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Antitrust Improve-  
5       ments Act of 1999”.

6       **SEC. 2. PURPOSE.**

7       The purpose of this Act is to enhance the authority  
8       of the Attorney General to prevent certain mergers and  
9       acquisitions that would unreasonably limit competition in

1 the telecommunications industry in any case in which cer-  
2 tain Federal requirements that would enhance competition  
3 are not met.

4 **SEC. 3. RESTRAINT OF TRADE.**

5 The Clayton Act (15 U.S.C. 12 et seq.) is amended—

6 (1) by redesignating section 27 (as designated  
7 by section 2 of Public Law 96–493) as section 29;  
8 and

9 (2) by inserting after section 27 (as added by  
10 the Curt Flood Act of 1998 (Public Law 105–297))  
11 the following new section:

12 “SEC. 28. (a) In this section, the term ‘large local  
13 telephone company’ means a local telephone company that,  
14 as of the date of a proposed merger or acquisition covered  
15 by this section, serves more than 5 percent of the tele-  
16 phone access lines in the United States.

17 “(b) Notwithstanding any other provision of law, a  
18 large local telephone company, including any affiliate of  
19 such a company, shall not merge with or acquire a control-  
20 ling interest in another large local telephone company  
21 unless—

22 “(1) the Attorney General finds that the pro-  
23 posed merger or acquisition will promote competition  
24 for telephone exchange services and exchange access  
25 services; and

1           “(2) the Federal Communications Commission  
2       finds that each large local telephone company that  
3       is a party to the proposed merger or acquisition,  
4       with respect to at least  $\frac{1}{2}$  of the access lines in each  
5       State served by that company, of which at least  $\frac{1}{2}$   
6       are residential access lines, has fully implemented  
7       the requirements of sections 251 and 252 of the  
8       Communications Act of 1934 (47 U.S.C. 251, 252),  
9       including the regulations of the Commission and of  
10      the States that implement those requirements.

11       “(c) Not later than 10 days after the Attorney Gen-  
12      eral makes a finding described in subsection (b)(1), the  
13      Attorney General shall submit to the Committee on the  
14      Judiciary of the Senate and the Committee on the Judici-  
15      ary of the House of Representatives a report on the find-  
16      ing, including an analysis of the effect of the merger or  
17      acquisition on competition in the United States tele-  
18      communications industry.

19       “(d)(1) Each large local telephone company or affil-  
20      iate of a large local telephone company proposing to merge  
21      with or acquire a controlling interest in another large local  
22      telephone company shall file an application under this sec-  
23      tion with respect to the merger or acquisition with both  
24      the Attorney General and the Federal Communications  
25      Commission on the same day.

1       “(2) The Attorney General and the Federal Commu-  
 2       nications Commission shall issue a decision regarding the  
 3       application within the time period applicable to review of  
 4       mergers under section 7A.

5       “(e)(1) The district courts of the United States are  
 6       vested with jurisdiction to prevent and restrain any merg-  
 7       ers or acquisitions described in subsection (d) that are in-  
 8       consistent with a finding under paragraph (1) or (2) of  
 9       subsection (b).

10       “(2) The Attorney General may institute proceedings  
 11       in any district court of the United States in the district  
 12       in which the defendant resides or is found or has an agent  
 13       and that court shall order such injunctive, and other relief,  
 14       as may be appropriate if—

15               “(A) the Attorney General makes a finding that  
 16       a proposed merger or acquisition covered by an ap-  
 17       plication under subsection (d) does not meet the  
 18       condition specified in subsection (b)(1); or

19               “(B) the Federal Communications Commission  
 20       makes a finding that 1 or more of the parties to the  
 21       proposed merger or acquisition do not meet the re-  
 22       quirements specified in subsection (b)(2).”.

23       **SEC. 4. PRESERVATION OF EXISTING AUTHORITIES.**

24       (a) IN GENERAL.—Nothing in this Act or the amend-  
 25       ment made by section 3(2) shall be construed to modify,

1 impair, or supersede the applicability of the antitrust laws,  
2 or any authority of the Federal Communications Commis-  
3 sion under the Communications Act of 1934 (47 U.S.C.  
4 151 et seq.), with respect to mergers, acquisitions, and  
5 affiliations of large local exchange carriers.

6 (b) ANTITRUST LAWS DEFINED.—In this section, the  
7 term “antitrust laws” has the meaning given that term  
8 in the first section of the Clayton Act (15 U.S.C. 12).

9 **SEC. 5. APPLICABILITY.**

10 This Act and the amendment made by section 3(2)  
11 shall apply to a merger or acquisition of a controlling in-  
12 terest of a large local telephone company (as that term  
13 is defined in section 27 of the Clayton Act, as added by  
14 such section 3(2)), occurring on or after the date of the  
15 enactment of this Act.

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