

106TH CONGRESS
1ST SESSION

S. 1312

To ensure full and expeditious enforcement of the provisions of the Communications Act of 1934 that seek to bring about competition in local telecommunications markets, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 1, 1999

Mr. HOLLINGS introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To ensure full and expeditious enforcement of the provisions of the Communications Act of 1934 that seek to bring about competition in local telecommunications markets, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Telecommunications
5 Competition Enforcement Act of 1999”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds:

1 (1) The Telecommunications Act of 1996 put in
2 place the proper framework to achieve competition in
3 local telecommunications markets.

4 (2) The Telecommunications Act of 1996 re-
5 quired that all incumbent local exchange carriers
6 open their markets to competition by interconnecting
7 with and providing network access to new entrants,
8 a process to be overseen by Federal and State regu-
9 lators.

10 (3) To increase the incentives of the Bell oper-
11 ating companies to open their local networks to com-
12 petition, the Telecommunications Act of 1996 allows
13 the Bell operating companies to provide interLATA
14 long distance service in their service region only
15 after opening their local networks to competition.

16 (4) While significant progress has been made in
17 opening local telecommunications markets, 3 years
18 after passage of the Act, not a single Bell operating
19 company has opened its network to competition as
20 required by the Telecommunications Act of 1996.

21 (5) It is apparent that the incumbent local ex-
22 change carriers do not have adequate incentives to
23 cooperate in this process and that regulators have
24 not exercised their enforcement authority to require
25 compliance.

1 (6) By improving mandatory penalties on Bell
2 operating companies and incumbent telephone com-
3 panies that have not opened their network to com-
4 petition, there will be greater assurance that local
5 telecommunications markets will be opened more ex-
6 peditiously and, as a result, American consumers
7 will obtain the full benefits of competition.

8 **SEC. 3. PURPOSE.**

9 The purpose of this Act is to impose penalties on tele-
10 phone companies that have not complied with the Tele-
11 communications Act of 1996 in order to ensure that local
12 telecommunications markets are opened more rapidly to
13 full, robust, and sustainable competition.

14 **SEC. 4. ENFORCEMENT AUTHORITY.**

15 Title 2 of the Communications Act of 1934 (47
16 U.S.C. 201 et seq.) is amended by adding at the end the
17 following new section:

18 **“SEC. 262. ENFORCEMENT AUTHORITY.**

19 “(a) IN GENERAL.—

20 “(1) If the Commission finds that a Bell oper-
21 ating company has not fully implemented the com-
22 petitive checklist in section 271(c)(2)(B) for all tele-
23 communications (including voice, video, and data)
24 for at least one-half of the States in its region by
25 February 8, 2001, as determined by the Commission

1 under Commission policies adopted as of June 1,
2 1999, the Commission shall assess on such company
3 a forfeiture penalty of \$100,000 for each day of the
4 continuing violation until the Commission deter-
5 mines that the Bell operating company has fully im-
6 plemented section 271(c)(2)(B).

7 “(2) If the Commission finds that a Bell oper-
8 ating company has not fully implemented the com-
9 petitive checklist in section 271(c)(2)(B) for all tele-
10 communications (including voice, video, and data) in
11 all States in its region by February 8, 2003, as de-
12 termined by the Commission under Commission poli-
13 cies adopted as of June 1, 1999, the Commission
14 shall order the Bell operating company to divest
15 itself of its telecommunications network facilities
16 within 180 days in States in which it has not fully
17 implemented the requirements of section
18 271(c)(2)(B). The Bell operating company owning
19 or controlling those telecommunications network fa-
20 cilities shall provide neither telecommunications nor
21 information services to subscribers who are tele-
22 communications carriers in States in which it is in
23 violation of section 271(c)(2)(B) until the Commis-
24 sion finds that effective facilities-based local com-
25 petition exists in the relevant market.

1 “(b) ENSURE MARKETS ARE OPEN TO COMPETI-
2 TION.—

3 “(1) For an incumbent local exchange carrier
4 (as defined in section 251(h)), other than a Bell op-
5 erating company, with more than 5 percent of the
6 access lines in the nation the Commission shall en-
7 sure, upon receipt of a petition from any interested
8 party, that the company’s markets are open to com-
9 petition by completing an investigation within 120
10 days to determine whether such incumbent local ex-
11 change carrier has fully complied with section 251(c)
12 for all telecommunications (including voice, video,
13 and data).

14 “(2) In determining compliance with section
15 251(c), the Commission shall consult with the rel-
16 evant State regulators and shall use as a benchmark
17 the practices and performance of other incumbent
18 local exchange carriers in the State and region.

19 “(3)(A) If the Commission finds that such in-
20 cumbent local exchange carrier is not in full compli-
21 ance with section 251(c) for all telecommunications
22 (including voice, video, and data), the Commission
23 shall explicitly state the reasons for such carrier not
24 being in full compliance and allow the carrier 60
25 days to come into full compliance.

1 “(B) If such carrier does not come into full
2 compliance at the end of the 60-day period, the
3 Commission shall—

4 “(i) assess on the carrier a forfeiture pen-
5 alty of \$50,000 per day of the continuing viola-
6 tion; and

7 “(ii) order the carrier to cease and desist
8 in marketing and selling long distance services
9 to new customers.

10 Such forfeiture penalty and cease and desist order
11 shall continue until the Commission finds that the
12 carrier is in compliance with section 251(c).

13 “(c) POST APPROVAL PROTECTIONS.—

14 “(1) IN GENERAL.—If at any time after the ap-
15 proval of an application consistent with the require-
16 ments of section 271, the Commission determines
17 that a Bell operating company has ceased to meet
18 one or more of the requirements of section
19 271(c)(2)(B) for all telecommunications (including
20 voice, video, and data), the Commission shall, after
21 notice and opportunity for a hearing assess on the
22 company a forfeiture penalty of \$100,000 for each
23 violation and for each day of the continuing viola-
24 tion.

1 “(2) PENALTY.—If at any time after the ap-
2 proval of an application consistent with the require-
3 ments of section 271, the Commission determines
4 that a Bell operating company has willfully, know-
5 ingly, and repeatedly ceased to meet one or more of
6 the requirements of section 271(c)(2)(B) for all tele-
7 communications (including voice, video, and data),
8 the Commission shall, after notice and opportunity
9 for a hearing order the company to divest itself of
10 its telecommunications network facilities within 180
11 days in States in which it has ceased to meet the re-
12 quirements of section 271(c)(2)(B).

13 “(d) AUTHORITY.—Notwithstanding any other provi-
14 sion of this Act, the Commission shall have full authority
15 to order, implement, and enforce the provisions of this sec-
16 tion. In implementing this section, the Commission shall
17 ensure that it does not alter the policies and standards
18 in effect as of June 1, 1999, for ensuring compliance with
19 section 271 of the Act.

20 “(e) ADDITIONAL PROVISIONS.—The provisions of
21 this section are in addition to the penalties and forfeitures
22 provided by title 5 of this Act.”.

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