

106TH CONGRESS  
1ST SESSION

# S. 877

To encourage the provision of advanced service, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

APRIL 26, 1999

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

---

## A BILL

To encourage the provision of advanced service, 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 “Broadband Internet  
5       Regulatory Relief Act of 1999”.

6       **SEC. 2. DEFINITIONS.**

7       (a) IN GENERAL.—Section 3 of the Communications  
8       Act of 1934 (47 U.S.C. 153) is amended by—

9               (1) redesignating paragraph (1) through (51)  
10       as paragraphs (3) through (53), respectively;

1           (2) inserting before paragraph (3), as redesignated,  
2           nated, the following:

3           “(1) ADVANCED SERVICE.—The term ‘advanced  
4           service’ means a communications service or combination  
5           of such services providing a digitally encoded  
6           signal downstream from a provider to a consumer at  
7           a rated speed of 200 kilobits per second or above  
8           and upstream from a consumer to a provider at a  
9           rated speed of 128 kilobits per second or above for  
10          access to the Internet or other interstate information  
11          and data services.

12          “(2) ADVANCED SERVICE PROVIDER.—The  
13          term ‘advanced service provider’ means any provider  
14          of advanced services.”;

15          (3) redesignating paragraphs (19) through  
16          (53), as redesignated by paragraph (1) of this subsection,  
17          as paragraphs (20) through (54), respectively; and  
18          

19          (4) inserting before paragraph (20), as redesignated  
20          by paragraph (3) of this subsection, the following:  
21          

22          “(19) DSL-CAPABLE LOOP.—The term ‘DSL-capable  
23          loop’ means a loop capable of transporting  
24          an advanced service.”.

1 (b) CONFORMING AMENDMENT.—Section  
 2 271(c)(1)(A) of the Communications Act of 1934 (47  
 3 U.S.C. 271(c)(1)(A)) is amended by striking “3(47)(A),”  
 4 and inserting “3(50)(A),”.

5 **SEC. 3. REGULATION OF ADVANCED SERVICE.**

6 (a) IN GENERAL.—Part II of title II of the Commu-  
 7 nications Act of 1934 (47 U.S.C. 251 et seq.) is amended  
 8 by adding at the end thereof the following:

9 **“SEC. 262. PROVISION OF ADVANCED SERVICE BY INCUM-  
 10 BENT LOCAL EXCHANGE CARRIER.**

11 “(a) IN GENERAL.—Notwithstanding section 2(b)  
 12 of this Act, or any other provision of law, an incumbent  
 13 local exchange carrier shall not be subject to the require-  
 14 ments of—

15 “(1) section 251(c)(3) with respect to facilities  
 16 and equipment used exclusively to provide advanced  
 17 service; and

18 “(2) section 251(c)(4) for the provision of ad-  
 19 vanced service,

20 in any State in which 70 percent of the incumbent local  
 21 exchange carrier’s loops in its service territory are DSL-  
 22 capable, as determined by that State.

23 “(b) PRICING FLEXIBILITY.—

24 “(1) COMPETITION FOR ADVANCED SERVICE.—

25 Except as provided in paragraph (4), the prices,

1 terms, and conditions of any advanced service by an  
2 incumbent local exchange carrier shall not be subject  
3 to regulation if the Commission determines that ad-  
4 vanced service is being offered by an unaffiliated ad-  
5 vanced service provider in competition with the in-  
6 cumbent local exchange carrier within a geographic  
7 area served by a central office.

8 “(2) PETITION.—An incumbent local exchange  
9 carrier seeking pricing flexibility under paragraph  
10 (1) may file a petition with the Commission seeking  
11 such relief. A petition under this paragraph is  
12 deemed to have been approved if the Commission  
13 does not act on it within 30 days after it is filed.

14 “(3) UNCONDITIONAL RELIEF.—If the Commis-  
15 sion determines under paragraph (1) that advanced  
16 service is being offered by an unaffiliated provider in  
17 the manner described in that paragraph, the Com-  
18 mission shall approve the petition of the incumbent  
19 local exchange carrier unconditionally.

20 “(4) ADVANCED SERVICE OUTSIDE AN INCUM-  
21 BENT’S TERRITORY.—The rates, terms, and condi-  
22 tions of advanced service offered by an incumbent  
23 local exchange carrier or its affiliate are not subject  
24 to regulation in any geographic area in which that

1 carrier, its successor, or assigns was not the local in-  
2 cumbent exchange carrier on February 8, 1996.

3 “(5) SCHEDULE OF CHARGES.—For any ad-  
4 vanced service that has not been determined by the  
5 Commission to be subject to competition under para-  
6 graph (1), the incumbent local exchange carrier fur-  
7 nishing such advanced service shall file with the  
8 Commission a schedule of charges and practices for  
9 such advanced service in a manner prescribed by the  
10 Commission under section 204. Any such schedule of  
11 charges and practices shall be deemed lawful and  
12 shall be effective 2 days after the date on which it  
13 was filed with the Commission unless the Commis-  
14 sion takes action under section 204(a)(1) before the  
15 end of that 2-day period.

16 “(c) DEFINITION OF INCUMBENT LOCAL EXCHANGE  
17 CARRIER.—For purposes of this section, the term ‘incum-  
18 bent local exchange carrier’ has the meaning given to that  
19 term by section 251(h).

20 **“SEC. 263. PROVISION OF ADVANCED SERVICE NOT SUB-**  
21 **JECT TO CERTAIN RESALE REQUIREMENTS.**

22 “Notwithstanding section 2(b), or any other provision  
23 of law, section 251(b)(1) does not apply to a local ex-

- 1 change carrier with respect to its provision of advanced
- 2 service.”.

