

107TH CONGRESS
1ST SESSION

H. R. 2120

To ensure the application of the antitrust laws to local telephone monopolies,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2001

Mr. CANNON (for himself, Mr. CONYERS, Mr. ISSA, and Mr. NADLER) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To ensure the application of the antitrust laws to local
telephone monopolies, 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 Antitrust

5 Restoration and Reform Act”.

6 **SEC. 2. AMENDMENT TO THE CLAYTON ACT.**

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

8 by adding at the end the following:

1 **“SEC. 28. COMPETITION IN TELECOMMUNICATIONS SERV-**2 **ICES.**3 “(a) APPLICATION PREREQUISITE TO PROVIDING
4 HIGH SPEED DATA SERVICE OR INTERNET BACKBONE
5 SERVICE; ATTORNEY GENERAL REINSTATEMENT OF PRO-
6 COMPETITIVE REGULATIONS.—7 “(1) REQUIREMENT TO FILE APPLICATION
8 WITH ATTORNEY GENERAL OF THE UNITED
9 STATES.—A Bell operating company or an affiliate
10 of a Bell operating company may not provide any
11 interLATA service in any of its in-region States
12 under the authority of any amendment to section
13 271 of the Communications Act of 1934 (47 U.S.C.
14 271) enacted after June 13, 2001—15 “(A) unless it files with the Attorney Gen-
16 eral of the United States an application to pro-
17 vide such service; and

18 “(B) until the Attorney General—

19 “(i) approves such application before
20 the expiration of the 90-day period begin-
21 ning on the date such application is filed;
22 or23 “(ii) fails to approve or to disapprove
24 such application during such 90-day pe-
25 riod.

1 “(2) AUTHORITY OF ATTORNEY GENERAL.—

2 The Attorney General of the United States—

3 “(A) may issue rules to establish require-
4 ments applicable to the form and contents of
5 applications filed under paragraph (1);

6 “(B) may make recommendations to an
7 applicant regarding—

8 “(i) withdrawal of an application filed
9 under paragraph (1); or

10 “(ii) filing of an application under
11 paragraph (1), with or without modifica-
12 tions, subsequent to the withdrawal of an
13 application filed under such paragraph;
14 and

15 “(C) may not approve an application filed
16 in compliance with this subsection if the Attor-
17 ney General determines that the applicant—

18 “(i) has monopoly power in the local
19 exchange market; and

20 “(ii) is using or is likely to use its mo-
21 nopoly power in order to engage in exclu-
22 sionary or other anticompetitive conduct.

23 “(3) WITHDRAWAL OF APPLICATION.—An ap-
24 plication filed under paragraph (1) may be with-
25 drawn by the applicant at any time before the Attor-

1 ney General approves or disapproves such applica-
2 tion, but may not be modified after being filed.

3 “(4) REINSTATEMENT OF REGULATION.—If the
4 Attorney General, *sua sponte*, determines that the
5 conditions specified in paragraph (2)(C) have been
6 met with respect to a Bell operating company or an
7 affiliate of a Bell operating company, then the At-
8 torney General may reinstate, as to such company or
9 such affiliate, any Federal regulation in effect as of
10 June 13, 2001, which the Attorney General deter-
11 mines was designed to protect against exclusionary
12 conduct or other abusive monopoly power.

13 “(5) EXCLUSION.—Nothing in this subsection
14 shall apply to two-percent carriers.

15 “(b) CONTINUING OPERATION OF THE ANTITRUST
16 LAWS.—The rights, obligations, powers, and remedies
17 provided under the antitrust laws are in addition to, and
18 are—

19 “(1) not preempted by;

20 “(2) not inconsistent with; and

21 “(3) not incompatible with;

22 any of the rights, obligations, powers, and remedies pro-
23 vided under the Communications Act of 1934 (47 U.S.C.
24 151 et seq.), under the Telecommunications Act of 1996
25 (Public Law 104–104; 110 Stat. 56), or under any law

1 amended by either such Act, regardless of the progress
2 of competition in any market.

3 “(c) DEFINITIONS.—For purposes of this section:

4 “(1) AFFILIATE.—The term ‘affiliate’ means a
5 person that (directly or indirectly) owns or controls,
6 is owned or controlled by, or is under common own-
7 ership or control with, another person. For purposes
8 of this paragraph, the term ‘own’ means to own an
9 equity interest (or equivalent thereof) of more than
10 10 percent.

11 “(2) BELL OPERATING COMPANY.—The term
12 ‘Bell operating company’ has the meaning given
13 such term in section 3 of the Communications Act
14 of 1934 (47 U.S.C. 153).

15 “(3) IN-REGION STATE.—The term ‘in-region
16 State’ has the meaning given to such term in section
17 271(i) of the Communications Act of 1934 (47
18 U.S.C. 271(i)).

19 “(4) INTERLATA SERVICE.—The term
20 ‘interLATA service’ has the meaning given such
21 term in section 3 of the Communications Act of
22 1934 (47 U.S.C. 153).

23 “(5) TWO-PERCENT CARRIER.—The term ‘two-
24 percent carrier’ means an incumbent local exchange
25 carrier within the meaning of section 251(h) of the

1 Communications Act (47 U.S.C. 254(h)) whose ac-
2 cess lines, when aggregated with the access lines of
3 any local exchange carrier that such incumbent local
4 exchange carrier directly or indirectly controls, is
5 controlled by, or is under common control with, are
6 fewer than two percent of the Nation's subscriber
7 lines installed in the aggregate nationwide.”.

○