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House of Representatives

The House met at 8 a.m. and was called to order by the Speaker pro tempore [Mr. BUNN of Oregon].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BUNN of Oregon) laid before the House the following communication from the Speaker:

WASHINGTON, DC,
August 4, 1995.

I hereby designate the Honorable JIM BUNN to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplian, Rev. James David Ford, D.D., offered the following prayer:

Your word, O God, proclaims the message of faith and hope and love and we long to experience that joy and peace. Yet often we wonder where that word of grace is amid the cluttered affairs of the world and the untidy arrangements of each day. Our prayer, gracious God, is that we will hear Your still small voice in spite of the clamor and noise of life and that we will experience the power of Your spirit in the depths of our own hearts. With gratefulness, O God, we believe that Your presence is greater than the din of the world and we are thankful that underneath are Your everlasting arms. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore (Mr. BUNN of Oregon). The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas [Mr. BRYANT] come forward and lead the House in the Pledge of Allegiance.

Mr. BRYANT of Texas led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATIONS ACT OF 1995

The SPEAKER pro tempore (Mr. BUNN). Pursuant to House Resolution 207 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1555.

☐ 0802

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1555) to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies, with Mr. KOLBE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN (Mr. KOLBE). When the Committee of the Whole House rose on Wednesday, August 2, 1995, all time for general debate had expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered read.

NOTICE

Issues of the Congressional Record during the August District Work Period will be published each day the Senate is in session in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 2:00 p.m.

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By order of the Joint Committee on Printing.

WILLIAM M. THOMAS, *Chairman.*

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Communications Act of 1995''.

(b) REFERENCES.—References in this Act to ''the Act'' are references to the Communications Act of 1934.

(c) TABLE OF CONTENTS.—

TITLE I—DEVELOPMENT OF COMPETITIVE TELECOMMUNICATIONS MARKETS

SEC. 101. ESTABLISHMENT OF PART II OF TITLE II.

(a) AMENDMENT.—Title II of the Act is amended by inserting after section 229 (47 U.S.C. 229) the following new part:

''PART II—DEVELOPMENT OF COMPETITIVE MARKETS

''SEC. 241. INTERCONNECTION.

''The duty of a common carrier under section 201(a) includes the duty to interconnect with the facilities and equipment of other providers of telecommunications services and information services.

''SEC. 242. EQUAL ACCESS AND INTERCONNECTION TO THE LOCAL LOOP FOR COMPETING PROVIDERS.

''(a) OPENNESS AND ACCESSIBILITY OBLIGATIONS.—The duty under section 201(a) of a local exchange carrier includes the following duties:

''(1) INTERCONNECTION.—The duty to provide, in accordance with subsection (b), equal access to and interconnection with the facilities of the carrier's networks to any other carrier or person offering (or seeking to offer) telecommunications services or information services reasonably requesting such equal access and interconnection, so that such networks are fully interoperable with such telecommunications services and information services. For purposes of this paragraph, a request is not reasonable unless it contains a proposed plan, including a reasonable schedule, for the implementation of the requested access or interconnection.

''(2) UNBUNDLING OF NETWORK ELEMENTS.—The duty to offer unbundled services, elements, features, functions, and capabilities whenever technically feasible, at just, reasonable, and nondiscriminatory prices and in accordance with subsection (b)(4).

''(3) RESALE.—The duty to offer services, elements, features, functions, and capabilities for resale at economically feasible rates to the reseller, recognizing pricing structures for telephone exchange service in the State, and the duty not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale, on a bundled or unbundled basis, of services, elements, features, functions, and capabilities in conjunction with the furnishing of a telecommunications service or an information service.

''(4) NUMBER PORTABILITY.—The duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.

''(5) DIALING PARITY.—The duty to provide, in accordance with subsection (c), dialing parity to competing providers of telephone exchange service and telephone toll service.

''(6) ACCESS TO RIGHTS-OF-WAY.—The duty to afford access to the poles, ducts, conduits, and rights-of-way of such carrier to competing providers of telecommunications services in accordance with section 224(d).

''(7) NETWORK FUNCTIONALITY AND ACCESSIBILITY.—The duty not to install network features, functions, or capabilities that do not comply with any standards established pursuant to section 249.

''(8) GOOD FAITH NEGOTIATION.—The duty to negotiate in good faith, under the supervision of State commissions, the particular terms and conditions of agreements to fulfill the duties described in paragraphs (1) through (7). The other carrier or person requesting interconnection shall also be obligated to negotiate in good faith the particular terms and conditions of agreements to fulfill the duties described in paragraphs (1) through (7).

''(b) INTERCONNECTION, COMPENSATION, AND EQUAL ACCESS.—

''(1) INTERCONNECTION.—A local exchange carrier shall provide access to and interconnection with the facilities of the carrier's network at any technically feasible point within the carrier's network on just and reasonable terms and conditions, to any other carrier or person offering (or seeking to offer) telecommunications services or information services requesting such access.

''(2) INTERCARRIER COMPENSATION BETWEEN FACILITIES-BASED CARRIERS.—

''(A) IN GENERAL.—For the purposes of paragraph (1), the terms and conditions for interconnection of the network facilities of a competing provider of telephone exchange service shall not be considered to be just and reasonable unless—

''(i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the termination on such carrier's network facilities of calls that originate on the network facilities of the other carrier;

''(ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls; and

''(iii) the recovery of costs permitted by such terms and conditions are reasonable in relation to the prices for termination of calls that would prevail in a competitive market.

''(B) RULES OF CONSTRUCTION.—This paragraph shall not be construed—

''(i) to preclude arrangements that afford such mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements); or

''(ii) to authorize the Commission or any State commission to engage in any rate regulation proceeding to establish with particularity the additional costs of terminating calls, or to require carriers to maintain records with respect to the additional costs of terminating calls.

''(3) EQUAL ACCESS.—A local exchange carrier shall afford, to any other carrier or person offering (or seeking to offer) a telecommunications service or an information service, reasonable and nondiscriminatory access on an unbundled basis—

''(A) to databases, signaling systems, billing and collection services, poles, ducts, conduits, and rights-of-way owned or controlled by a

local exchange carrier, or other facilities, functions, or information (including subscriber numbers) integral to the efficient transmission, routing, or other provision of telephone exchange services or exchange access;

''(B) that is equal in type and quality to the access which the carrier affords to itself or to any other person, and is available at nondiscriminatory prices; and

''(C) that is sufficient to ensure the full interoperability of the equipment and facilities of the carrier and of the person seeking such access.

''(4) COMMISSION ACTION REQUIRED.—

''(A) IN GENERAL.—Within 15 months after the date of enactment of this part, the Commission shall complete all actions necessary (including any reconsideration) to establish regulations to implement the requirements of this section. The Commission shall establish such regulations after consultation with the Joint Board established pursuant to section 247.

''(B) COLLOCATION.—Such regulations shall provide for actual collocation of equipment necessary for interconnection for telecommunications services at the premises of a local exchange carrier, except that the regulations shall provide for virtual collocation where the local exchange carrier demonstrates that actual collocation is not practical for technical reasons or because of space limitations.

''(C) USER PAYMENT OF COSTS.—Such regulations shall require that the costs that a carrier incurs in offering access, interconnection, number portability, or unbundled services, elements, features, functions, and capabilities shall be borne by the users of such access, interconnection, number portability, or services, elements, features, functions, and capabilities.

''(D) IMPUTED CHARGES TO CARRIER.—Such regulations shall require the carrier, to the extent it provides a telecommunications service or an information service that requires access or interconnection to its network facilities, to impute such access and interconnection charges to itself.

''(c) NUMBER PORTABILITY AND DIALING PARITY.—

''(1) AVAILABILITY.—A local exchange carrier shall ensure that—

''(A) number portability shall be available on request in accordance with subsection (a)(4); and

''(B) dialing parity shall be available upon request, except that, in the case of a Bell operating company, such company shall ensure that dialing parity for intraLATA telephone toll service shall be available not later than the date such company is authorized to provide interLATA services.

''(2) NUMBER ADMINISTRATION.—The Commission shall designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis. The Commission shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States. Nothing in this paragraph shall preclude the Commission from delegating to State commissions or other entities any portion of such jurisdiction.

''(d) JOINT MARKETING OF RESOLD ELEMENTS.—

''(1) RESTRICTION.—Except as provided in paragraph (2), no service, element, feature, function, or capability that is made available for resale in any State by a Bell operating company may be jointly marketed directly or indirectly with any interLATA telephone toll service until such Bell operating company is authorized pursuant to section 245(d) to provide interLATA services in such State.

''(2) EXISTING PROVIDERS.—Paragraph (1) shall not prohibit joint marketing of services, elements, features, functions, or capabilities acquired from a Bell operating company by another provider if that provider jointly markets services, elements, features, functions, and capabilities acquired from a Bell operating company anywhere in the telephone service territory of such Bell operating company, or in the telephone service territory of any affiliate of such Bell operating company that provides telephone exchange service, pursuant to any agreement, tariff, or other arrangement entered into or in effect before the date of enactment of this part.

''(e) MODIFICATIONS AND WAIVERS.—The Commission may modify or waive the requirements of this section for any local exchange carrier (or class or category of such carriers) that has, in the aggregate nationwide, fewer than 500,000 access lines installed, to the extent that the Commission determines that compliance with such requirements (without such modification) would be unduly economically burdensome, technologically infeasible, or otherwise not in the public interest.

''(f) WAIVER FOR RURAL TELEPHONE COMPANIES.—A State commission may waive the requirements of this section with respect to any rural telephone company.

''(g) EXEMPTION FOR CERTAIN RURAL TELEPHONE COMPANIES.—Subsections (a) through (d) of this section shall not apply to a carrier that has fewer than 50,000 access lines in a local exchange study area, if such carrier does not provide video programming services over its telephone exchange facilities in such study area, except that a State commission may terminate the exemption under this subsection if the State commission determines that the termination of such exemption is consistent with the public interest, convenience, and necessity.

''(h) AVOIDANCE OF REDUNDANT REGULATIONS.—Nothing in this section shall be construed to prohibit the Commission or any State commission from enforcing regulations prescribed prior to the date of enactment of this part in fulfilling the requirements of this section, to the extent that such regulations are consistent with the provisions of this section.

''SEC. 243. PREEMPTION.

''(a) REMOVAL OF BARRIERS TO ENTRY.—Except as provided in subsection (b) of this section, no State or local statute, regulation, or other legal requirement shall—

''(1) effectively prohibit any carrier or other person from entering the business of providing interstate or intrastate telecommunications services or information services; or

''(2) effectively prohibit any carrier or other person providing (or seeking to provide) interstate or intrastate telecommunications services or information services from exercising the access and interconnection rights provided under this part.

''(b) STATE AND LOCAL AUTHORITY.—Nothing in this section shall affect the ability of State or local officials to impose, on a nondiscriminatory basis, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, ensure that a provider's business practices are consistent with consumer protection laws and regulations, and ensure just and reasonable rates, provided that such requirements do not effectively prohibit any carrier or person from providing interstate or intrastate telecommunications services or information services.

''(c) CONSTRUCTION PERMITS.—Subsection (a) shall not be construed to prohibit a local government from requiring a person or carrier to obtain ordinary and usual construction or similar permits for its operations if—

''(1) such permit is required without regard to the nature of the business; and

''(2) requiring such permit does not effectively prohibit any person or carrier from providing any interstate or intrastate telecommunications service or information service.

''(d) EXCEPTION.—In the case of commercial mobile services, the provisions of section 332(c)(3) shall apply in lieu of the provisions of this section.

''(e) PARITY OF FRANCHISE AND OTHER CHARGES.—Notwithstanding section 2(b), no local government may impose or collect any franchise, license, permit, or right-of-way fee or any assessment, rental, or any other charge or equivalent thereof as a condition for operating in the locality or for obtaining access to, occupying, or crossing public rights-of-way from any provider of telecommunications services that distinguishes between or among providers of telecommunications services, including the local exchange carrier. For purposes of this subsection, a franchise, license, permit, or right-of-way fee or an assessment, rental, or any other charge or equivalent thereof does not include any imposition of general applicability which does not distinguish between or among providers of telecommunications services, or any tax.

''SEC. 244. STATEMENTS OF TERMS AND CONDITIONS FOR ACCESS AND INTERCONNECTION.

''(a) IN GENERAL.—Within 18 months after the date of enactment of this part, and from time to time thereafter, a local exchange carrier shall prepare and file with a State commission statements of the terms and conditions that such carrier generally offers within that State with respect to the services, elements, features, functions, or capabilities provided to comply with the requirements of section 242 and the regulations thereunder. Any such statement pertaining to the charges for interstate services, elements, features, functions, or capabilities shall be filed with the Commission.

''(b) REVIEW.—

''(1) STATE COMMISSION REVIEW.—A State commission to which a statement is submitted under subsection (a) shall review such statement in accordance with State law. A State commission may not approve such statement unless such statement complies with section 242 and the regulations thereunder. Except as provided in section 243, nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of such statement, including requiring compliance with intrastate telecommunications service quality standards or requirements.

''(2) FCC REVIEW.—The Commission shall review such statements to ensure that—

''(A) the charges for interstate services, elements, features, functions, or capabilities are just, reasonable, and nondiscriminatory; and

''(B) the terms and conditions for such interstate services or elements unbundle any separable services, elements, features, functions, or capabilities in accordance with section 242(a)(2) and any regulations thereunder.

''(c) TIME FOR REVIEW.—

''(1) SCHEDULE FOR REVIEW.—The Commission and the State commission to which a statement is submitted shall, not later than 60 days after the date of such submission—

''(A) complete the review of such statement under subsection (b) (including any reconsideration thereof), unless the submitting carrier agrees to an extension of the period for such review; or

''(B) permit such statement to take effect.

''(2) AUTHORITY TO CONTINUE REVIEW.—Paragraph (1) shall not preclude the Commission or a State commission from continuing to review a statement that has been permitted to take effect under subparagraph (B) of such paragraph.

''(d) EFFECT OF AGREEMENTS.—Nothing in this section shall prohibit a carrier from filing an agreement to provide services, elements, features, functions, or capabilities affording access and interconnection as a statement of terms and conditions that the carrier generally offers for purposes of this section. An agreement affording access and interconnection shall not be approved under this section unless the agreement contains a plan, including a reasonable schedule, for the implementation of the requested access or interconnection. The approval of a statement under this section shall not operate to prohibit a carrier from entering into subsequent

agreements that contain terms and conditions that differ from those contained in a statement that has been reviewed and approved under this section, but—

''(1) each such subsequent agreement shall be filed under this section; and

''(2) such carrier shall be obligated to offer access to such services, elements, features, functions, or capabilities to other carriers and persons (including carriers and persons covered by previously approved statements) requesting such access on terms and conditions that, in relation to the terms and conditions in such subsequent agreements, are not discriminatory.

''(e) SUNSET.—The provisions of this section shall cease to apply in any local exchange market, defined by geographic area and class or category of service, that the Commission and the State determines has become subject to full and open competition.

''SEC. 245. BELL OPERATING COMPANY ENTRY INTO INTERLATA SERVICES.

''(a) VERIFICATION OF ACCESS AND INTERCONNECTION COMPLIANCE.—At any time after 18 months after the date of enactment of this part, a Bell operating company may provide to the Commission verification by such company with respect to one or more States that such company is in compliance with the requirements of this part. Such verification shall contain the following:

''(1) CERTIFICATION.—A certification by each State commission of such State or States that such carrier has fully implemented the conditions described in subsection (b), except as provided in subsection (d)(2).

''(2) AGREEMENT OR STATEMENT.—For each such State, either of the following:

''(A) PRESENCE OF A FACILITIES-BASED COMPETITOR.—An agreement that has been approved under section 244 specifying the terms and conditions under which the Bell operating company is providing access and interconnection to its network facilities in accordance with section 242 for an unaffiliated competing provider of telephone exchange service that is comparable in price, features, and scope and that is provided over the competitor's own network facilities to residential and business subscribers.

''(B) FAILURE TO REQUEST ACCESS.—If no such provider has requested such access and interconnection before the date which is 3 months before the date the company makes its submission under this subsection, a statement of the terms and conditions that the carrier generally offers to provide such access and interconnection that has been approved or permitted to take effect by the State commission under section 243.

For purposes of subparagraph (B), a Bell operating company shall be considered not to have received any request for access or interconnection if the State commission of such State or States certifies that the only provider or providers making such request have (i) failed to bargain in good faith under the supervision of such State commission pursuant to section 242(a)(8), or (ii) have violated the terms of their agreement by failure to comply, within a reasonable period of time, with the implementation schedule contained in such agreement.

''(b) CERTIFICATION OF COMPLIANCE WITH PART II.—For the purposes of subsection (a)(1), a Bell operating company shall submit to the Commission a certification by a State commission of compliance with each of the following conditions in any area where such company provides local exchange service or exchange access in such State:

''(1) INTERCONNECTION.—The Bell operating company provides access and interconnection in accordance with subsections (a)(1) and (b) of section 242 to any other carrier or person offering telecommunications services requesting such access and interconnection, and complies with the Commission regulations pursuant to such section concerning such access and interconnection.

''(2) UNBUNDLING OF NETWORK ELEMENTS.—The Bell operating company provides unbundled services, elements, features, functions, and capabilities in accordance with subsection (a)(2) of section 242 and the regulations prescribed by the Commission pursuant to such section.

''(3) RESALE.—The Bell operating company offers services, elements, features, functions, and capabilities for resale in accordance with section 242(a)(3), and neither the Bell operating company, nor any unit of State or local government within the State, imposes any restrictions on resale or sharing of telephone exchange service (or unbundled services, elements, features, or functions of telephone exchange service) in violation of section 242(a)(3).

''(4) NUMBER PORTABILITY.—The Bell operating company provides number portability in compliance with the Commission's regulations pursuant to subsections (a)(4) and (c) of section 242.

''(5) DIALING PARITY.—The Bell operating company provides dialing parity in accordance with subsections (a)(5) and (c) of section 242, and will, not later than the effective date of its authority to commence providing interLATA services, take such actions as are necessary to provide dialing parity for intraLATA telephone toll service in accordance with such subsections.

''(6) ACCESS TO CONDUITS AND RIGHTS OF WAY.—The poles, ducts, conduits, and rights of way of such Bell operating company are available to competing providers of telecommunications services in accordance with the requirements of sections 242(a)(6) and 224(d).

''(7) ELIMINATION OF FRANCHISE LIMITATIONS.—No unit of the State or local government in such State or States enforces any prohibition or limitation in violation of section 243.

''(8) NETWORK FUNCTIONALITY AND ACCESSIBILITY.—The Bell operating company will not install network features, functions, or capabilities that do not comply with the standards established pursuant to section 249.

''(9) NEGOTIATION OF TERMS AND CONDITIONS.—The Bell operating company has negotiated in good faith, under the supervision of the State commission, in accordance with the requirements of section 242(a)(8) with any other carrier or person requesting access or interconnection.

''(c) APPLICATION FOR INTERIM INTERLATA AUTHORITY.—

''(1) APPLICATION SUBMISSION AND CONTENTS.—At any time after the date of enactment of this part, and prior to the completion by the Commission of all actions necessary to establish regulations under section 242, a Bell operating company may apply to the Commission for interim authority to provide interLATA services. Such application shall specify the LATA or LATAs for which the company is requesting authority to provide interim interLATA services. Such application shall contain, with respect to each LATA within a State for which authorization is requested, the following:

''(A) PRESENCE OF A FACILITIES-BASED COMPETITOR.—An agreement that the State commission has determined complies with section 242 (without regard to any regulations thereunder) and that specifies the terms and conditions under which the Bell operating company is providing access and interconnection to its network facilities for an unaffiliated competing provider of telephone exchange service that is comparable in price, features, and scope and that is provided over the competitor's own network facilities to residential and business subscribers.

''(B) CERTIFICATION.—A certification by the State commission of the State within which such LATA is located that such company is in compliance with State laws, rules, and regulations providing for the implementation of the standards described in subsection (b) as of the date of certification, including certification that such company is offering services, elements, features, functions, and capabilities for resale at economically feasible rates to the reseller, recognizing pricing structures for telephone exchange service in such State.

''(2) STATE TO PARTICIPATE.—The company shall serve a copy of the application on the relevant State commission within 5 days of filing its application. The State shall file comments to the Commission on the company's application within 40 days of receiving a copy of the company's application.

''(3) DEADLINES FOR COMMISSION ACTION.—The Commission shall make a determination on such application not more than 90 days after such application is filed.

''(4) EXPIRATION OF INTERIM AUTHORITY.—Any interim authority granted pursuant to this subsection shall cease to be effective 180 days after the completion by the Commission of all actions necessary to establish regulations under section 242.

''(d) COMMISSION REVIEW.—

''(1) REVIEW OF STATE DECISIONS AND CERTIFICATIONS.—The Commission shall review any verification submitted by a Bell operating company pursuant to subsection (a). The Commission may require such company to submit such additional information as is necessary to validate any of the items of such verification.

''(2) DE NOVO REVIEW.—If—

''(A) a State commission does not have the jurisdiction or authority to make the certification required by subsection (b);

''(B) the State commission has failed to act within 90 days after the date a request for such certification is filed with such State commission; or

''(C) the State commission has sought to impose a term or condition in violation of section 243;

the local exchange carrier may request the Commission to certify the carrier's compliance with the conditions specified in subsection (b).

''(3) TIME FOR DECISION; PUBLIC COMMENT.—Unless such Bell operating company consents to a longer period of time, the Commission shall approve, disapprove, or approve with conditions such verification within 90 days after the date of its submission. During such 90 days, the Commission shall afford interested persons an opportunity to present information and evidence concerning such verification.

''(4) STANDARD FOR DECISION.—The Commission shall not approve such verification unless the Commission determines that—

''(A) the Bell operating company meets each of the conditions required to be certified under subsection (b); and

''(B) the agreement or statement submitted under subsection (a)(2) complies with the requirements of section 242 and the regulations thereunder.

''(e) ENFORCEMENT OF CONDITIONS.—

''(1) COMMISSION AUTHORITY.—If at any time after the approval of a verification under subsection (d), the Commission determines that a Bell operating company has ceased to meet any of the conditions required to be certified under subsection (b), the Commission may, after notice and opportunity for a hearing—

''(A) issue an order to such company to correct the deficiency;

''(B) impose a penalty on such company pursuant to title V; or

''(C) suspend or revoke such approval.

''(2) RECEIPT AND REVIEW OF COMPLAINTS.—The Commission shall establish procedures for the review of complaints concerning failures by Bell operating companies to meet conditions required to be certified under subsection (b). Unless the parties otherwise agree, the Commission shall act on such complaint within 90 days.

''(3) STATE AUTHORITY.—The authority of the Commission under this subsection shall not be construed to preempt any State commission from taking actions to enforce the conditions required to be certified under subsection (b).

''(f) AUTHORITY TO PROVIDE INTERLATA SERVICES.—

''(1) PROHIBITION.—Except as provided in paragraph (2) and subsections (g) and (h), a Bell operating company or affiliate thereof may not provide interLATA services.

''(2) AUTHORITY SUBJECT TO CERTIFICATION.—A Bell operating company or affiliate thereof may, in any States to which its verification under subsection (a) applies, provide interLATA services—

''(A) during any period after the effective date of the Commission's approval of such verification pursuant to subsection (d), and

''(B) until the approval of such verification is suspended or revoked by the Commission pursuant to subsection (d).

''(g) EXCEPTION FOR PREVIOUSLY AUTHORIZED ACTIVITIES.—Subsection (f) shall not prohibit a Bell operating company or affiliate from engaging, at any time after the date of the enactment of this part, in any activity as authorized by an order entered by the United States District Court for the District of Columbia pursuant to section VII or VIII(C) of the Modification of Final Judgment, if—

''(1) such order was entered on or before the date of the enactment of this part, or

''(2) a request for such authorization was pending before such court on the date of the enactment of this part.

''(h) EXCEPTIONS FOR INCIDENTAL SERVICES.—Subsection (f) shall not prohibit a Bell operating company or affiliate thereof, at any time after the date of the enactment of this part, from providing interLATA services for the purpose of—

''(1)(A) providing audio programming, video programming, or other programming services to subscribers to such services of such company;

''(B) providing the capability for interaction by such subscribers to select or respond to such audio programming, video programming, or other programming services; or

''(C) providing to distributors audio programming or video programming that such company owns or controls, or is licensed by the copyright owner of such programming (or by an assignee of such owner) to distribute;

''(2) providing a telecommunications service, using the transmission facilities of a cable system that is an affiliate of such company, between local access and transport areas within a cable system franchise area in which such company is not, on the date of the enactment of this part, a provider of wireline telephone exchange service;

''(3) providing commercial mobile services in accordance with section 332(c) of this Act and with the regulations prescribed by the Commission pursuant to paragraph (8) of such section;

''(4) providing a service that permits a customer that is located in one local access and transport area to retrieve stored information from, or file information for storage in, information storage facilities of such company that are located in another local access and transport area;

''(5) providing signaling information used in connection with the provision of telephone exchange services to a local exchange carrier that, together with any affiliated local exchange carriers, has aggregate annual revenues of less than $100,000,000; or

''(6) providing network control signaling information to, and receiving such signaling information from, common carriers offering interLATA services at any location within the area in which such Bell operating company provides telephone exchange services or exchange access.

''(i) INTRALATA TOLL DIALING PARITY.—Neither the Commission nor any State may order any Bell operating company to provide dialing parity for intraLATA telephone toll service in any State before the date such company is authorized to provide interLATA services in such State pursuant to this section.

''(j) FORBEARANCE.—The Commission may not, pursuant to section 230, forbear from applying any provision of this section or any regulation thereunder until at least 5 years after the date of enactment of this part.

''(k) SUNSET.—The provisions of this section shall cease to apply in any local exchange market, defined by geographic area and class or category of service, that the Commission and the State determines has become subject to full and open competition.

''(l) DEFINITIONS.—As used in this section—

''(1) AUDIO PROGRAMMING.—The term 'audio programming' means programming provided by, or generally considered comparable to programming provided by, a radio broadcast station.

''(2) VIDEO PROGRAMMING.—The term 'video programming' has the meaning provided in section 602.

''(3) OTHER PROGRAMMING SERVICES.—The term 'other programming services' means information (other than audio programming or video programming) that the person who offers a video programming service makes available to all subscribers generally. For purposes of the preceding sentence, the terms 'information' and 'makes available to all subscribers generally' have the same meaning such terms have under section 602(13) of this Act.

''SEC. 246. COMPETITIVE SAFEGUARDS.

''(a) IN GENERAL.—In accordance with the requirements of this section and the regulations adopted thereunder, a Bell operating company or any affiliate thereof providing any interLATA telecommunications or information service, shall do so through a subsidiary that is separate from the Bell operating company or any affiliate thereof that provides telephone exchange service.

''(b) TRANSACTION REQUIREMENTS.—Any transaction between such a subsidiary and a Bell operating company and any other affiliate of such company shall be conducted on an arm's-length basis, in the same manner as the Bell operating company conducts business with unaffiliated persons, and shall not be based upon any preference or discrimination in favor of the subsidiary arising out of the subsidiary's affiliation with such company.

''(c) SEPARATE OPERATION AND PROPERTY.—A subsidiary required by this section shall—

''(1) operate independently from the Bell operating company or any affiliate thereof,

''(2) have separate officers, directors, and employees who may not also serve as officers, directors, or employees of the Bell operating company or any affiliate thereof,

''(3) not enter into any joint venture activities or partnership with a Bell operating company or any affiliate thereof,

''(4) not own any telecommunications transmission or switching facilities in common with the Bell operating company or any affiliate thereof, and

''(5) not jointly own or share the use of any other property with the Bell operating company or any affiliate thereof.

''(d) BOOKS, RECORDS, AND ACCOUNTS.—Any subsidiary required by this section shall maintain books, records, and accounts in a manner prescribed by the Commission which shall be separate from the books, records, and accounts maintained by a Bell operating company or any affiliate thereof.

''(e) PROVISION OF SERVICES AND INFORMATION.—A Bell operating company or any affiliate thereof may not discriminate between a subsidiary required by this section and any other person in the provision or procurement of goods, services, facilities, or information, or in the establishment of standards, and shall not provide any goods, services, facilities or information to a subsidiary required by this section unless such goods, services, facilities or information are made available to others on reasonable, nondiscriminatory terms and conditions.

''(f) PREVENTION OF CROSS-SUBSIDIES.—A Bell operating company or any affiliate thereof required to maintain a subsidiary under this section shall establish and administer, in accordance with the requirements of this section and the regulations prescribed thereunder, a cost allocation system that prohibits any cost of providing interLATA telecommunications or information services from being subsidized by revenue from telephone exchange services and telephone exchange access services. The cost allocation system shall employ a formula that ensures that—

''(1) the rates for telephone exchange services and exchange access are no greater than they would have been in the absence of such investment in interLATA telecommunications or information services (taking into account any decline in the real costs of providing such telephone exchange services and exchange access); and

''(2) such interLATA telecommunications or information services bear a reasonable share of the joint and common costs of facilities used to provide telephone exchange, exchange access, and competitive services.

''(g) ASSETS.—The Commission shall, by regulation, ensure that the economic risks associated with the provision of interLATA telecommunications or information services by a Bell operating company or any affiliate thereof (including any increases in such company's cost of capital that occur as a result of the provision of such services) are not borne by customers of telephone exchange services and exchange access in the event of a business loss or failure. Investments or other expenditures assigned to interLATA telecommunications or information services shall not be reassigned to telephone exchange service or exchange access.

''(h) DEBT.—A subsidiary required by this section shall not obtain credit under any arrangement that would—

''(1) permit a creditor, upon default, to have resource to the assets of a Bell operating company; or

''(2) induce a creditor to rely on the tangible or intangible assets of a Bell operating company in extending credit.

''(i) FULFILLMENT OF CERTAIN REQUESTS.—A Bell operating company or an affiliate thereof shall—

''(1) fulfill any requests from an unaffiliated entity for telephone exchange service and exchange access within a period no longer than the period in which it provides such telephone exchange service and exchange access to itself or to its affiliates;

''(2) fulfill any such requests with telephone exchange service and exchange access of a quality that meets or exceeds the quality of telephone exchange services and exchange access provided by the Bell operating company or its affiliates to itself or its affiliates; and

''(3) provide telephone exchange service and exchange access to all providers of intraLATA or interLATA telephone toll services and interLATA information services at cost-based rates that are not unreasonably discriminatory.

''(j) CHARGES FOR ACCESS SERVICES.—A Bell operating company or an affiliate thereof shall charge the subsidiary required by this section an amount for telephone exchange services, exchange access, and other necessary associated inputs no less than the rate charged to any unaffiliated entity for such access and inputs.

''(k) SUNSET.—The provisions of this section shall cease to apply in any local exchange market 3 years after the date of enactment of this part.

''SEC. 247. UNIVERSAL SERVICE.

''(a) JOINT BOARD TO PRESERVE UNIVERSAL SERVICE.—Within 30 days after the date of enactment of this part, the Commission shall convene a Federal-State Joint Board under section 410(c) for the purpose of recommending actions to the Commission and State commissions for the preservation of universal service in furtherance of the purposes set forth in section 1 of this Act. In addition to the members required under section 410(c), one member of the Joint Board shall be a State-appointed utility consumer advocate

nominated by a national organization of State utility consumer advocates.

''(b) PRINCIPLES.—The Joint Board shall base policies for the preservation of universal service on the following principles:

''(1) JUST AND REASONABLE RATES.—A plan adopted by the Commission and the States should ensure the continued viability of universal service by maintaining quality services at just and reasonable rates.

''(2) DEFINITIONS OF INCLUDED SERVICES; COMPARABILITY IN URBAN AND RURAL AREAS.—Such plan should recommend a definition of the nature and extent of the services encompassed within carriers' universal service obligations. Such plan should seek to promote access to advanced telecommunications services and capabilities, and to promote reasonably comparable services for the general public in urban and rural areas, while maintaining just and reasonable rates.

''(3) ADEQUATE AND SUSTAINABLE SUPPORT MECHANISMS.—Such plan should recommend specific and predictable mechanisms to provide adequate and sustainable support for universal service.

''(4) EQUITABLE AND NONDISCRIMINATORY CONTRIBUTIONS.—All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation of universal service.

''(5) EDUCATIONAL ACCESS TO ADVANCED TELECOMMUNICATIONS SERVICES.—To the extent that a common carrier establishes advanced telecommunications services, such plan should include recommendations to ensure access to advanced telecommunications services for students in elementary and secondary schools.

''(6) ADDITIONAL PRINCIPLES.—Such other principles as the Board determines are necessary and appropriate for the protection of the public interest, convenience, and necessity and consistent with the purposes of this Act.

''(c) DEFINITION OF UNIVERSAL SERVICE.—In recommending a definition of the nature and extent of the services encompassed within carriers' universal service obligations under subsection (b)(2), the Joint Board shall consider the extent to which—

''(1) a telecommunications service has, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;

''(2) such service or capability is essential to public health, public safety, or the public interest;

''(3) such service has been deployed in the public switched telecommunications network; and

''(4) inclusion of such service within carriers' universal service obligations is otherwise consistent with the public interest, convenience, and necessity.

The Joint Board may, from time to time, recommend to the Commission modifications in the definition proposed under subsection (b).

''(d) REPORT; COMMISSION RESPONSE.—The Joint Board convened pursuant to subsection (a) shall report its recommendations within 270 days after the date of enactment of this part. The Commission shall complete any proceeding to act upon such recommendations and to comply with the principles set forth in subsection (b) within one year after such date of enactment.

''(e) STATE AUTHORITY.—Nothing in this section shall be construed to restrict the authority of any State to adopt regulations imposing universal service obligations on the provision of intrastate telecommunications services.

''(f) SUNSET.—The Joint Board established by this section shall cease to exist 5 years after the date of enactment of this part.

''SEC. 248. PRICING FLEXIBILITY AND ABOLITION OF RATE-OF-RETURN REGULATION.

''(a) PRICING FLEXIBILITY.—

''(1) COMMISSION CRITERIA.—Within 270 days after the date of enactment of this part, the Commission shall complete all actions necessary (including any reconsideration) to establish—

''(A) criteria for determining whether a telecommunications service or provider of such service has become, or is substantially certain to become, subject to competition, either within a geographic area or within a class or category of service; and

''(B) appropriate flexible pricing procedures that afford a regulated provider of a service described in subparagraph (A) the opportunity to respond fairly to such competition and that are consistent with the protection of subscribers and the public interest, convenience, and necessity.

''(2) STATE SELECTION.—A State commission may utilize the flexible pricing procedures or procedures (established under paragraph (1)(B)) that are appropriate in light of the criteria established under paragraph (1)(A).

''(3) DETERMINATIONS.—The Commission, with respect to rates for interstate or foreign communications, and State commissions, with respect to rates for intrastate communications, shall, upon application—

''(A) render determinations in accordance with the criteria established under paragraph (1)(A) concerning the services or providers that are the subject of such application; and

''(B) upon a proper showing, implement appropriate flexible pricing procedures consistent with paragraphs (1)(B) and (2) with respect to such services or providers.

The Commission and such State commission shall approve or reject any such application within 180 days after the date of its submission.

''(b) ABOLITION OF RATE-OF-RETURN REGULATION.—Notwithstanding any other provision of law, to the extent that a carrier has complied with sections 242 and 244 of this part, the Commission, with respect to rates for interstate or foreign communications, and State commissions, with respect to rates for intrastate communications, shall not require rate-of-return regulation.

''(c) TERMINATION OF PRICE AND OTHER REGULATION.—Notwithstanding any other provision of law, to the extent that a carrier has complied with sections 242 and 244 of this part, the Commission, with respect to interstate or foreign communications, and State commissions, with respect to intrastate communications, shall not, for any service that is determined, in accordance with the criteria established under subsection (a)(1)(A), to be subject to competition that effectively prevents prices for such service that are unjust or unreasonable or unjustly or unreasonably discriminatory—

''(1) regulate the prices for such service;

''(2) require the filing of a schedule of charges for such service;

''(3) require the filing of any cost or revenue projections for such service;

''(4) regulate the depreciation charges for facilities used to provide such service; or

''(5) require prior approval for the construction or extension of lines or other equipment for the provision of such service.

''(d) ABILITY TO CONTINUE AFFORDABLE VOICE-GRADE SERVICE.—Notwithstanding subsections (a), (b), and (c), each State commission shall, for a period of not more than 3 years, permit residential subscribers to continue to receive only basic voice-grade local telephone service equivalent to the service generally available to residential subscribers on the date of enactment of this part, at just, reasonable, and affordable rates. Determinations concerning the affordability of rates for such services shall take into account the rates generally available to residential subscribers on such date of enactment and the pricing rules established by the States. Any increases in the rates for such services for residential subscribers that are not attributable to changes in consumer prices generally shall be permitted in any proceeding commenced after the date of enactment of this section upon a showing that such increase is necessary to ensure the continued availability of universal service, prevent economic disadvantages for one or more service providers, and is in the public interest. Such increase in rates shall be minimized to the greatest extent practical and shall be implemented over a time period of not more than 3 years after the the date of enactment of this section. The requirements of this subsection shall not apply to any rural telephone company if the rates for basic voice-grade local telephone service of that company are not subject to regulation by a State commission on the date of enactment of this part.

''(e) INTERSTATE INTEREXCHANGE SERVICE.—The rates charged by providers of interstate interexchange telecommunications service to customers in rural and high cost areas shall be maintained at levels no higher than those charged by each such provider to its customers in urban areas.

''(f) EXCEPTION.—In the case of commercial mobile services, the provisions of section 332(c)(1) shall apply in lieu of the provisions of this section.

''(g) AVOIDANCE OF REDUNDANT REGULATIONS.—Nothing in this section shall be construed to prohibit the Commission or a State commission from enforcing regulations prescribed prior to the date of enactment of this part in fulfilling the requirements of this section, to the extent that such regulations are consistent with the provisions of this section.

''SEC. 249. NETWORK FUNCTIONALITY AND ACCESSIBILITY.

''(a) FUNCTIONALITY AND ACCESSIBILITY.—The duty of a common carrier under section 201(a) to furnish communications service includes the duty to furnish that service in accordance with any standards established pursuant to this section.

''(b) COORDINATION FOR INTERCONNECTIVITY.—The Commission—

''(1) shall establish procedures for Commission oversight of coordinated network planning by common carriers and other providers of telecommunications services for the effective and efficient interconnection of public switched networks; and

''(2) may participate, in a manner consistent with its authority and practice prior to the date of enactment of this section, in the development by appropriate industry standards-setting organizations of interconnection standards that promote access to—

''(A) network capabilities and services by individuals with disabilities; and

''(B) information services by subscribers to telephone exchange service furnished by a rural telephone company.

''(c) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES.—

''(1) ACCESSIBILITY.—Within 1 year after the date of enactment of this section, the Commission shall prescribe such regulations as are necessary to ensure that, if readily achievable, advances in network services deployed by common carriers, and telecommunications equipment and customer premises equipment manufactured for use in conjunction with network services, shall be accessible and usable by individuals with disabilities, including individuals with functional limitations of hearing, vision, movement, manipulation, speech, and interpretation of information. Such regulations shall permit the use of both standard and special equipment, and seek to minimize the need of individuals to acquire additional devices beyond those used by the general public to obtain such access. Throughout the process of developing such regulations, the Commission shall coordinate and consult with representatives of individuals with disabilities and interested equipment and service providers to ensure their concerns and interests are given full consideration in such process.

''(2) COMPATIBILITY.—Such regulations shall require that whenever an undue burden or adverse competitive impact would result from the requirements in paragraph (1), the local exchange carrier that deploys the network service

shall ensure that the network service in question is compatible with existing peripheral devices or specialized customer premises equipment commonly used by persons with disabilities to achieve access, unless doing so would result in an undue burden or adverse competitive impact.

''(3) UNDUE BURDEN.—The term 'undue burden' means significant difficulty or expense. In determining whether the activity necessary to comply with the requirements of this subsection would result in an undue burden, the factors to be considered include the following:

''(A) The nature and cost of the activity.

''(B) The impact on the operation of the facility involved in the deployment of the network service.

''(C) The financial resources of the local exchange carrier.

''(D) The type of operations of the local exchange carrier.

''(4) ADVERSE COMPETITIVE IMPACT.—In determining whether the activity necessary to comply with the requirements of this subsection would result in adverse competitive impact, the following factors shall be considered:

''(A) Whether such activity would raise the cost of the network service in question beyond the level at which there would be sufficient consumer demand by the general population to make the network service profitable.

''(B) Whether such activity would, with respect to the network service in question, put the local exchange carrier at a competitive disadvantage. This factor may be considered so long as competing network service providers are not held to the same obligation with respect to access by persons with disabilities.

''(5) EFFECTIVE DATE.—The regulations required by this subsection shall become effective 18 months after the date of enactment of this part.

''(d) PRIVATE RIGHTS OF ACTIONS PROHIBITED.—Nothing in this section shall be construed to authorize any private right of action to enforce any requirement of this section or any regulation thereunder. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.

''SEC. 250. MARKET ENTRY BARRIERS.

''(a) ELIMINATION OF BARRIERS.—Within 15 months after the date of enactment of this part, the Commission shall complete a proceeding for the purpose of identifying and eliminating, by regulations pursuant to its authority under this Act (other than this section), market entry barriers for entrepreneurs and other small businesses in the provision and ownership of telecommunications services and information services, or in the provision of parts or services to providers of telecommunications services and information services.

''(b) NATIONAL POLICY.—In carrying out subsection (a), the Commission shall seek to promote the policies and purposes of this Act favoring diversity of points of view, vigorous economic competition, technological advancement, and promotion of the public interest, convenience, and necessity.

''(c) PERIODIC REVIEW.—Every 3 years following the completion of the proceeding required by subsection (a), the Commission shall review and report to Congress on—

''(1) any regulations prescribed to eliminate barriers within its jurisdiction that are identified under subsection (a) and that can be prescribed consistent with the public interest, convenience, and necessity; and

''(2) the statutory barriers identified under subsection (a) that the Commission recommends be eliminated, consistent with the public interest, convenience, and necessity.

''SEC. 251. ILLEGAL CHANGES IN SUBSCRIBER CARRIER SELECTIONS.

''No common carrier shall submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe. Nothing in this section shall preclude any State commission from enforcing such procedures with respect to intrastate services.

''SEC. 252. STUDY.

''At least once every three years, the Commission shall conduct a study that—

''(1) reviews the definition of, and the adequacy of support for, universal service, and evaluates the extent to which universal service has been protected and access to advanced services has been facilitated pursuant to this part and the plans and regulations thereunder;

''(2) evaluates the extent to which access to advanced telecommunications services for students in elementary and secondary school classrooms has been attained pursuant to section 247(b)(5); and

''(3) determines whether the regulations established under section 249(c) have ensured that advances in network services by providers of telecommunications services and information services are accessible and usable by individuals with disabilities.

''SEC. 253. TERRITORIAL EXEMPTION.

''Until 5 years after the date of enactment of this part, the provisions of this part shall not apply to any local exchange carrier in any territory of the United States if (1) the local exchange carrier is owned by the government of such territory, and (2) on the date of enactment of this part, the number of households in such territory subscribing to telephone service is less than 85 percent of the total households located in such territory.''.

(b) CONSOLIDATED RULEMAKING PROCEEDING.—The Commission shall conduct a single consolidated rulemaking proceeding to prescribe or amend regulations necessary to implement the requirements of—

(1) part II of title II of the Act as added by subsection (a) of this section;

(2) section 222 as amended by section 104 of this Act; and

(3) section 224 as amended by section 105 of this Act.

(c) DESIGNATION OF PART I.—Title II of the Act is further amended by inserting before the heading of section 201 the following new heading:

''PART I—REGULATION OF DOMINANT COMMON CARRIERS''.

(d) SYLISTIC CONSISTENCY.—The Act 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; 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, as amended by subsection (c).

(e) CONFORMING AMENDMENTS.—

(1) FEDERAL-STATE JURISDICTION.—Section 2(b) of the Act (47 U.S.C. 152(b)) is amended by inserting ''part II of title II,'' after ''227, inclusive,''.

(2) FORFEITURES.—Sections 503(b)(1) and 504(b) of such Act (47 U.S.C. 503(b)) are each amended by inserting ''part I of'' before ''title II''.

SEC. 102. COMPETITION IN MANUFACTURING, INFORMATION SERVICES, ALARM SERVICES, AND PAY-PHONE SERVICES.

(a) COMPETITION IN MANUFACTURING, INFORMATION SERVICES, AND ALARM SERVICES.—Title II of the Act is amended by adding at the end of part II (as added by section 101) the following new part:

''PART III—SPECIAL AND TEMPORARY PROVISIONS

''SEC. 271. MANUFACTURING BY BELL OPERATING COMPANIES.

''(a) ACCESS AND INTERCONNECTION.—It shall be unlawful for a Bell operating company, directly or through an affiliate, to manufacture telecommunications equipment or customer premises equipment, until the Commission has approved under section 245(c) verifications that such Bell operating company, and each Bell operating company with which it is affiliated, are in compliance with the access and interconnection requirements of part II of this title.

''(b) COLLABORATION.—Subsection (a) shall not prohibit a Bell operating company from engaging in close collaboration with any manufacturer of customer premises equipment or telecommunications equipment during the design and development of hardware, software, or combinations thereof related to such equipment.

''(c) INFORMATION REQUIREMENTS.—

''(1) INFORMATION ON PROTOCOLS AND TECHNICAL REQUIREMENTS.—Each Bell operating company shall, in accordance with regulations prescribed by the Commission, maintain and file with the Commission full and complete information with respect to the protocols and technical requirements for connection with and use of its telephone exchange service facilities. Each such company shall report promptly to the Commission any material changes or planned changes to such protocols and requirements, and the schedule for implementation of such changes or planned changes.

''(2) DISCLOSURE OF INFORMATION.—A Bell operating company shall not disclose any information required to be filed under paragraph (1) unless that information has been filed promptly, as required by regulation by the Commission.

''(3) ACCESS BY COMPETITORS TO INFORMATION.—The Commission may prescribe such additional regulations under this subsection as may be necessary to ensure that manufacturers have access to the information with respect to the protocols and technical requirements for connection with and use of telephone exchange service facilities that a Bell operating company makes available to any manufacturing affiliate or any unaffiliated manufacturer.

''(4) PLANNING INFORMATION.—Each Bell operating company shall provide, to contiguous common carriers providing telephone exchange service, timely information on the planned deployment of telecommunications equipment.

''(d) MANUFACTURING LIMITATIONS FOR STANDARD-SETTING ORGANIZATIONS.—

''(1) BELL COMMUNICATIONS RESEARCH.—The Bell Communications Research Corporation, or any successor entity, shall not engage in manufacturing telecommunications equipment or customer premises equipment so long as—

''(A) such Corporation or entity is owned, in whole or in part, by one or more Bell operating companies; or

''(B) such Corporation or entity engages in establishing standards for telecommunications equipment, customer premises equipment, or telecommunications services, or any product certification activities with respect to telecommunications equipment or customer premises equipment.

''(2) PARTICIPATION IN STANDARD SETTING; PROTECTION OF PROPRIETARY INFORMATION.—Any entity (including such Corporation) that engages in establishing standards for—

''(A) telecommunications equipment, customer premises equipment, or telecommunications services, or

''(B) any product certification activities with respect to telecommunications equipment or customer premises equipment,

for one or more Bell operating companies shall allow any other person to participate fully in such activities on a nondiscriminatory basis. Any such entity shall protect proprietary information submitted for review in the standards-setting and certification processes from release not specifically authorized by the owner of such information, even after such entity ceases to be so engaged.

''(e) BELL OPERATING COMPANY EQUIPMENT PROCUREMENT AND SALES.—

''(1) OBJECTIVE BASIS.—Each Bell operating company and any entity acting on behalf of a

Bell operating company shall make procurement decisions and award all supply contracts for equipment, services, and software on the basis of an objective assessment of price, quality, delivery, and other commercial factors.

''(2) SALES RESTRICTIONS.—A Bell operating company engaged in manufacturing may not restrict sales to any local exchange carrier of telecommunications equipment, including software integral to the operation of such equipment and related upgrades.

''(3) PROTECTION OF PROPRIETARY INFORMATION.—A Bell operating company and any entity it owns or otherwise controls shall protect the proprietary information submitted for procurement decisions from release not specifically authorized by the owner of such information.

''(f) ADMINISTRATION AND ENFORCEMENT AUTHORITY.—For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to any Bell operating company or any affiliate thereof as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier subject to this Act.

''(g) EXCEPTION FOR PREVIOUSLY AUTHORIZED ACTIVITIES.—Nothing in this section shall prohibit a Bell operating company or affiliate from engaging, at any time after the date of the enactment of this part, in any activity as authorized by an order entered by the United States District Court for the District of Columbia pursuant to section VII or VIII(C) of the Modification of Final Judgment, if—

''(1) such order was entered on or before the date of the enactment of this part, or

''(2) a request for such authorization was pending before such court on the date of the enactment of this part.

''(h) ANTITRUST LAWS.—Nothing in this section shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws.

''(i) DEFINITION.—As used in this section, the term 'manufacturing' has the same meaning as such term has under the Modification of Final Judgment.

''SEC. 272. ELECTRONIC PUBLISHING BY BELL OPERATING COMPANIES.

''(a) LIMITATIONS.—No Bell operating company or any affiliate may engage in the provision of electronic publishing that is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service, except that nothing in this section shall prohibit a separated affiliate or electronic publishing joint venture operated in accordance with this section from engaging in the provision of electronic publishing.

''(b) SEPARATED AFFILIATE OR ELECTRONIC PUBLISHING JOINT VENTURE REQUIREMENTS.—A separated affiliate or electronic publishing joint venture shall be operated independently from the Bell operating company. Such separated affiliate or joint venture and the Bell operating company with which it is affiliated shall—

''(1) maintain separate books, records, and accounts and prepare separate financial statements;

''(2) not incur debt in a manner that would permit a creditor of the separated affiliate or joint venture upon default to have recourse to the assets of the Bell operating company;

''(3) carry out transactions (A) in a manner consistent with such independence, (B) pursuant to written contracts or tariffs that are filed with the Commission and made publicly available, and (C) in a manner that is auditable in accordance with generally accepted auditing standards;

''(4) value any assets that are transferred directly or indirectly from the Bell operating company to a separated affiliate or joint venture, and record any transactions by which such assets are transferred, in accordance with such regulations as may be prescribed by the Commission or a State commission to prevent improper cross subsidies;

''(5) between a separated affiliate and a Bell operating company—

''(A) have no officers, directors, and employees in common after the effective date of this section; and

''(B) own no property in common;

''(6) not use for the marketing of any product or service of the separated affiliate or joint venture, the name, trademarks, or service marks of an existing Bell operating company except for names, trademarks, or service marks that are or were used in common with the entity that owns or controls the Bell operating company;

''(7) not permit the Bell operating company—

''(A) to perform hiring or training of personnel on behalf of a separated affiliate;

''(B) to perform the purchasing, installation, or maintenance of equipment on behalf of a separated affiliate, except for telephone service that it provides under tariff or contract subject to the provisions of this section; or

''(C) to perform research and development on behalf of a separated affiliate;

''(8) each have performed annually a compliance review—

''(A) that is conducted by an independent entity for the purpose of determining compliance during the preceding calendar year with any provision of this section; and

''(B) the results of which are maintained by the separated affiliate or joint venture and the Bell operating company for a period of 5 years subject to review by any lawful authority;

''(9) within 90 days of receiving a review described in paragraph (8), file a report of any exceptions and corrective action with the Commission and allow any person to inspect and copy such report subject to reasonable safeguards to protect any proprietary information contained in such report from being used for purposes other than to enforce or pursue remedies under this section.

''(c) JOINT MARKETING.—

''(1) IN GENERAL.—Except as provided in paragraph (2)—

''(A) a Bell operating company shall not carry out any promotion, marketing, sales, or advertising for or in conjunction with a separated affiliate; and

''(B) a Bell operating company shall not carry out any promotion, marketing, sales, or advertising for or in conjunction with an affiliate that is related to the provision of electronic publishing.

''(2) PERMISSIBLE JOINT ACTIVITIES.—

''(A) JOINT TELEMARKETING.—A Bell operating company may provide inbound telemarketing or referral services related to the provision of electronic publishing for a separated affiliate, electronic publishing joint venture, affiliate, or unaffiliated electronic publisher, provided that if such services are provided to a separated affiliate, electronic publishing joint venture, or affiliate, such services shall be made available to all electronic publishers on request, on nondiscriminatory terms.

''(B) TEAMING ARRANGEMENTS.—A Bell operating company may engage in nondiscriminatory teaming or business arrangements to engage in electronic publishing with any separated affiliate or with any other electronic publisher if (i) the Bell operating company only provides facilities, services, and basic telephone service information as authorized by this section, and (ii) the Bell operating company does not own such teaming or business arrangement.

''(C) ELECTRONIC PUBLISHING JOINT VENTURES.—A Bell operating company or affiliate may participate on a nonexclusive basis in electronic publishing joint ventures with entities that are not any Bell operating company, affiliate, or separated affiliate to provide electronic publishing services, if the Bell operating company or affiliate has not more than a 50 percent direct or indirect equity interest (or the equivalent thereof) or the right to more than 50 percent of the gross revenues under a revenue sharing or royalty agreement in any electronic publishing joint venture. Officers and employees of a Bell operating company or affiliate participating in an electronic publishing joint venture may not have more than 50 percent of the voting control over the electronic publishing joint venture. In the case of joint ventures with small, local electronic publishers, the Commission for good cause shown may authorize the Bell operating company or affiliate to have a larger equity interest, revenue share, or voting control but not to exceed 80 percent. A Bell operating company participating in an electronic publishing joint venture may provide promotion, marketing, sales, or advertising personnel and services to such joint venture.

''(d) PRIVATE RIGHT OF ACTION.—

''(1) DAMAGES.—Any person claiming that any act or practice of any Bell operating company, affiliate, or separated affiliate constitutes a violation of this section may file a complaint with the Commission or bring suit as provided in section 207 of this Act, and such Bell operating company, affiliate, or separated affiliate shall be liable as provided in section 206 of this Act; except that damages may not be awarded for a violation that is discovered by a compliance review as required by subsection (b)(7) of this section and corrected within 90 days.

''(2) CEASE AND DESIST ORDERS.—In addition to the provisions of paragraph (1), any person claiming that any act or practice of any Bell operating company, affiliate, or separated affiliate constitutes a violation of this section may make application to the Commission for an order to cease and desist such violation or may make application in any district court of the United States of competent jurisdiction for an order enjoining such acts or practices or for an order compelling compliance with such requirement.

''(e) SEPARATED AFFILIATE REPORTING REQUIREMENT.—Any separated affiliate under this section shall file with the Commission annual reports in a form substantially equivalent to the Form 10–K required by regulations of the Securities and Exchange Commission.

''(f) EFFECTIVE DATES.—

''(1) TRANSITION.—Any electronic publishing service being offered to the public by a Bell operating company or affiliate on the date of enactment of this section shall have one year from such date of enactment to comply with the requirements of this section.

''(2) SUNSET.—The provisions of this section shall not apply to conduct occurring after June 30, 2000.

''(g) DEFINITION OF ELECTRONIC PUBLISHING.—

''(1) IN GENERAL.—The term 'electronic publishing' means the dissemination, provision, publication, or sale to an unaffiliated entity or person, of any one or more of the following: news (including sports); entertainment (other than interactive games); business, financial, legal, consumer, or credit materials; editorials, columns, or features; advertising; photos or images; archival or research material; legal notices or public records; scientific, educational, instructional, technical, professional, trade, or other literary materials; or other like or similar information.

''(2) EXCEPTIONS.—The term 'electronic publishing' shall not include the following services:

''(A) Information access, as that term is defined by the Modification of Final Judgment.

''(B) The transmission of information as a common carrier.

''(C) The transmission of information as part of a gateway to an information service that does not involve the generation or alteration of the content of information, including data transmission, address translation, protocol conversion, billing management, introductory information content, and navigational systems that enable users to access electronic publishing services, which do not affect the presentation of such electronic publishing services to users.

''(D) Voice storage and retrieval services, including voice messaging and electronic mail services.

''(E) Data processing or transaction processing services that do not involve the generation or alteration of the content of information.

''(F) Electronic billing or advertising of a Bell operating company's regulated telecommunications services.

''(G) Language translation or data format conversion.

''(H) The provision of information necessary for the management, control, or operation of a telephone company telecommunications system.

''(I) The provision of directory assistance that provides names, addresses, and telephone numbers and does not include advertising.

''(J) Caller identification services.

''(K) Repair and provisioning databases and credit card and billing validation for telephone company operations.

''(L) 911–E and other emergency assistance databases.

''(M) Any other network service of a type that is like or similar to these network services and that does not involve the generation or alteration of the content of information.

''(N) Any upgrades to these network services that do not involve the generation or alteration of the content of information.

''(O) Video programming or full motion video entertainment on demand.

''(h) ADDITIONAL DEFINITIONS.—As used in this section—

''(1) The term 'affiliate' means any entity that, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control with, a Bell operating company. Such term shall not include a separated affiliate.

''(2) The term 'basic telephone service' means wireline telephone exchange service provided by a Bell operating company in a telephone exchange area, except that such term does not include—

''(A) a competitive wireline telephone exchange service provided in a telephone exchange area where another entity provides a wireline telephone exchange service that was provided on January 1, 1984, and

''(B) a commercial mobile service.

''(3) The term 'basic telephone service information' means network and customer information of a Bell operating company and other information acquired by a Bell operating company as a result of its engaging in the provision of basic telephone service.

''(4) The term 'control' has the meaning that it has in 17 C.F.R. 240.12b–2, the regulations promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or any successor provision to such section.

''(5) The term 'electronic publishing joint venture' means a joint venture owned by a Bell operating company or affiliate that engages in the provision of electronic publishing which is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service.

''(6) The term 'entity' means any organization, and includes corporations, partnerships, sole proprietorships, associations, and joint ventures.

''(7) The term 'inbound telemarketing' means the marketing of property, goods, or services by telephone to a customer or potential customer who initiated the call.

''(8) The term 'own' with respect to an entity means to have a direct or indirect equity interest (or the equivalent thereof) of more than 10 percent of an entity, or the right to more than 10 percent of the gross revenues of an entity under a revenue sharing or royalty agreement.

''(9) The term 'separated affiliate' means a corporation under common ownership or control with a Bell operating company that does not own or control a Bell operating company and is not owned or controlled by a Bell operating company and that engages in the provision of electronic publishing which is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service.

''(10) The term 'Bell operating company' has the meaning provided in section 3, except that such term includes any entity or corporation that is owned or controlled by such a company (as so defined) but does not include an electronic publishing joint venture owned by such an entity or corporation.

''SEC. 273. ALARM MONITORING AND TELEMESSAGING SERVICES BY BELL OPERATING COMPANIES.

''(a) DELAYED ENTRY INTO ALARM MONITORING.—

''(1) PROHIBITION.—No Bell operating company or affiliate thereof shall engage in the provision of alarm monitoring services before the date which is 6 years after the date of enactment of this part.

''(2) EXISTING ACTIVITIES.—Paragraph (1) shall not apply to any provision of alarm monitoring services in which a Bell operating company or affiliate is lawfully engaged as of January 1, 1995, except that such Bell operating company or any affiliate may not acquire or otherwise obtain control of additional entities providing alarm monitoring services after such date.

''(b) NONDISCRIMINATION.—A common carrier engaged in the provision of alarm monitoring services or telemessaging services shall—

''(1) provide nonaffiliated entities, upon reasonable request, with the network services it provides to its own alarm monitoring or telemessaging operations, on nondiscriminatory terms and conditions; and

''(2) not subsidize its alarm monitoring services or its telemessaging services either directly or indirectly from telephone exchange service operations.

''(c) EXPEDITED CONSIDERATION OF COMPLAINTS.—The Commission shall establish procedures for the receipt and review of complaints concerning violations of subsection (b) or the regulations thereunder that result in material financial harm to a provider of alarm monitoring service or telemessaging service. Such procedures shall ensure that the Commission will make a final determination with respect to any such complaint within 120 days after receipt of the complaint. If the complaint contains an appropriate showing that the alleged violation occurred, as determined by the Commission in accordance with such regulations, the Commission shall, within 60 days after receipt of the complaint, order the common carrier and its affiliates to cease engaging in such violation pending such final determination.

''(d) DEFINITIONS.—As used in this section:

''(1) ALARM MONITORING SERVICE.—The term 'alarm monitoring service' means a service that uses a device located at a residence, place of business, or other fixed premises—

''(A) to receive signals from other devices located at or about such premises regarding a possible threat at such premises to life, safety, or property, from burglary, fire, vandalism, bodily injury, or other emergency, and

''(B) to transmit a signal regarding such threat by means of transmission facilities of a Bell operating company or one of its affiliates to a remote monitoring center to alert a person at such center of the need to inform the customer or another person or police, fire, rescue, security, or public safety personnel of such threat,

but does not include a service that uses a medical monitoring device attached to an individual for the automatic surveillance of an ongoing medical condition.

''(2) TELEMESSAGING SERVICES.—The term 'telemessaging services' means voice mail and voice storage and retrieval services provided over telephone lines for telemessaging customers and any live operator services used to answer, record, transcribe, and relay messages (other than telecommunications relay services) from incoming telephone calls on behalf of the telemessaging customers (other than any service incidental to directory assistance).

''SEC. 274. PROVISION OF PAYPHONE SERVICE.

''(a) NONDISCRIMINATION SAFEGUARDS.—After the effective date of the rules prescribed pursuant to subsection (b), any Bell operating company that provides payphone service—

''(1) shall not subsidize its payphone service directly or indirectly with revenue from its telephone exchange service or its exchange access service; and

''(2) shall not prefer or discriminate in favor of it payphone service.

''(b) REGULATIONS.—

''(1) CONTENTS OF REGULATIONS.—In order to promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public, within 9 months after the date of enactment of this section, the Commission shall take all actions necessary (including any reconsideration) to prescribe regulations that—

''(A) establish a per call compensation plan to ensure that all payphone services providers are fairly compensated for each and every completed intrastate and interstate call using their payphone, except that emergency calls and telecommunications relay service calls for hearing disabled individuals shall not be subject to such compensation;

''(B) discontinue the intrastate and interstate carrier access charge payphone service elements and payments in effect on the date of enactment of this section, and all intrastate and interstate payphone subsidies from basic exchange and exchange access revenues, in favor of a compensation plan as specified in subparagraph (A);

''(C) prescribe a set of nonstructural safeguards for Bell operating company payphone service to implement the provisions of paragraphs (1) and (2) of subsection (a), which safeguards shall, at a minimum, include the nonstructural safeguards equal to those adopted in the Computer Inquiry-III CC Docket No. 90–623 proceeding; and

''(D) provide for Bell operating company payphone service providers to have the same right that independent payphone providers have to negotiate with the location provider on selecting and contracting with, and, subject to the terms of any agreement with the location provider, to select and contract with the carriers that carry interLATA calls from their payphones, and provide for all payphone service providers to have the right to negotiate with the location provider on selecting and contracting with, and, subject to the terms of any agreement with the location provider, to select and contract with the carriers that carry intraLATA calls from their payphones.

''(2) PUBLIC INTEREST TELEPHONES.—In the rulemaking conducted pursuant to paragraph (1), the Commission shall determine whether public interest payphones, which are provided in the interest of public health, safety, and welfare, in locations where there would otherwise not be a payphone, should be maintained, and if so, ensure that such public interest payphones are supported fairly and equitably.

''(3) EXISTING CONTRACTS.—Nothing in this section shall affect any existing contracts between location providers and payphone service providers or interLATA or intraLATA carriers that are in force and effect as of the date of the enactment of this Act.

''(c) STATE PREEMPTION.—To the extent that any State requirements are inconsistent with the Commission's regulations, the Commission's regulations on such matters shall preempt State requirements.

''(d) DEFINITION.—As used in this section, the term 'payphone service' means the provision of public or semi-public pay telephones, the provision of inmate telephone service in correctional institutions, and any ancillary services.''.

SEC. 103. FORBEARANCE FROM REGULATION.

Part I of title II of the Act (as redesignated by section 101(c) of this Act) is amended by inserting after section 229 (47 U.S.C. 229) the following new section:

''SEC. 230. FORBEARANCE FROM REGULATION.

''(a) AUTHORITY TO FORBEAR.—The Commission shall forbear from applying any provision of this part or part II (other than sections 201, 202, 208, 243, and 248), or any regulation thereunder, to a common carrier or service, or class of carriers or services, in any or some of its or their geographic markets, if the Commission determines that—

''(1) enforcement of such provision or regulation is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that carrier or 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.''.

SEC. 104. PRIVACY OF CUSTOMER INFORMATION.

(a) PRIVACY OF CUSTOMER PROPRIETARY NETWORK INFORMATION.—Title II of the Act is amended by inserting after section 221 (47 U.S.C. 221) the following new section:

''SEC. 222. PRIVACY OF CUSTOMER PROPRIETARY NETWORK INFORMATION.

''(a) SUBSCRIBER LIST INFORMATION.—Notwithstanding subsections (b), (c), and (d), a carrier that provides local exchange service shall provide subscriber list information gathered in its capacity as a provider of such service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person upon request for the purpose of publishing directories in any format.

''(b) PRIVACY REQUIREMENTS FOR COMMON CARRIERS.—A carrier—

''(1) shall not, except as required by law or with the approval of the customer to which the information relates—

''(A) use customer proprietary network information in the provision of any service except to the extent necessary (i) in the provision of common carrier services, (ii) in the provision of a service necessary to or used in the provision of common carrier services, including the publishing of directories, or (iii) to continue to provide a particular information service that the carrier provided as of May 1, 1995, to persons who were customers of such service on that date;

''(B) use customer proprietary network information in the identification or solicitation of potential customers for any service other than the telephone exchange service or telephone toll service from which such information is derived;

''(C) use customer proprietary network information in the provision of customer premises equipment; or

''(D) disclose customer proprietary network information to any person except to the extent necessary to permit such person to provide services or products that are used in and necessary to the provision by such carrier of the services described in subparagraph (A);

''(2) shall disclose customer proprietary network information, upon affirmative written request by the customer, to any person designated by the customer;

''(3) shall, whenever such carrier provides any aggregate information, notify the Commission of the availability of such aggregate information and shall provide such aggregate information on reasonable terms and conditions to any other service or equipment provider upon reasonable request therefor; and

''(4) except for disclosures permitted by paragraph (1)(D), shall not unreasonably discriminate between affiliated and unaffiliated service or equipment providers in providing access to, or in the use and disclosure of, individual and aggregate information made available consistent with this subsection.

''(c) RULE OF CONSTRUCTION.—This section shall not be construed to prohibit the use or disclosure of customer proprietary network information as necessary—

''(1) to render, bill, and collect for the services identified in subsection (b)(1)(A);

''(2) to render, bill, and collect for any other service that the customer has requested;

''(3) to protect the rights or property of the carrier;

''(4) to protect users of any of those services and other carriers from fraudulent, abusive, or unlawful use of or subscription to such service; or

''(5) to provide any inbound telemarketing, referral, or administrative services to the customer for the duration of the call if such call was initiated by the customer and the customer approves of the use of such information to provide such service.

''(d) EXEMPTION PERMITTED.—The Commission may, by rule, exempt from the requirements of subsection (b) carriers that have, together with any affiliated carriers, in the aggregate nationwide, fewer than 500,000 access lines installed if the Commission determines that such exemption is in the public interest or if compliance with the requirements would impose an undue economic burden on the carrier.

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

''(1) CUSTOMER PROPRIETARY NETWORK INFORMATION.—The term 'customer proprietary network information' means—

''(A) information which relates to the quantity, technical configuration, type, destination, and amount of use of telephone exchange service or telephone toll service subscribed to by any customer of a carrier, and is made available to the carrier by the customer solely by virtue of the carrier-customer relationship;

''(B) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier; and

''(C) such other information concerning the customer as is available to the local exchange carrier by virtue of the customer's use of the carrier's telephone exchange service or telephone toll services, and specified as within the definition of such term by such rules as the Commission shall prescribe consistent with the public interest;

except that such term does not include subscriber list information.

''(2) SUBSCRIBER LIST INFORMATION.—The term 'subscriber list information' means any information—

''(A) identifying the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and

''(B) that the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format.

''(3) AGGREGATE INFORMATION.—The term 'aggregate information' means collective data that relates to a group or category of services or customers, from which individual customer identities and characteristics have been removed.''.

(b) CONVERGING COMMUNICATIONS TECHNOLOGIES AND CONSUMER PRIVACY.—

(1) COMMISSION EXAMINATION.—Within one year after the date of enactment of this Act, the Commission shall commence a proceeding—

(A) to examine the impact of the integration into interconnected communications networks of wireless telephone, cable, satellite, and other technologies on the privacy rights and remedies of the consumers of those technologies;

(B) to examine the impact that the globalization of such integrated communications networks has on the international dissemination of consumer information and the privacy rights and remedies to protect consumers;

(C) to propose changes in the Commission's regulations to ensure that the effect on consumer privacy rights is considered in the introduction of new telecommunications services and that the protection of such privacy rights is incorporated as necessary in the design of such services or the rules regulating such services;

(D) to propose changes in the Commission's regulations as necessary to correct any defects identified pursuant to subparagraph (A) in such rights and remedies; and

(E) to prepare recommendations to the Congress for any legislative changes required to correct such defects.

(2) SUBJECTS FOR EXAMINATION.—In conducting the examination required by paragraph (1), the Commission shall determine whether consumers are able, and, if not, the methods by which consumers may be enabled—

(A) to have knowledge that consumer information is being collected about them through their utilization of various communications technologies;

(B) to have notice that such information could be used, or is intended to be used, by the entity collecting the data for reasons unrelated to the original communications, or that such information could be sold (or is intended to be sold) to other companies or entities; and

(C) to stop the reuse or sale of that information.

(3) SCHEDULE FOR COMMISSION RESPONSES.—The Commission shall, within 18 months after the date of enactment of this Act—

(A) complete any rulemaking required to revise Commission regulations to correct defects in such regulations identified pursuant to paragraph (1); and

(B) submit to the Congress a report containing the recommendations required by paragraph (1)(C).

SEC. 105. POLE ATTACHMENTS.

Section 224 of the Act (47 U.S.C. 224) is amended—

(1) in subsection (a)(4)—

(A) by inserting after ''system'' the following: ''or a provider of telecommunications service''; and

(B) by inserting after ''utility'' the following: '', which attachment may be used by such entities to provide cable service or any telecommunications service'';

(2) in subsection (c)(2)(B), by striking ''cable television services'' and inserting ''the services offered via such attachments'';

(3) by redesignating subsection (d)(2) as subsection (d)(4); and

(4) by striking subsection (d)(1) and inserting the following:

''(d)(1) For purposes of subsection (b) of this section, the Commission shall, no later than 1 year after the date of enactment of the Communications Act of 1995, prescribe regulations for ensuring that utilities charge just and reasonable and nondiscriminatory rates for pole attachments provided to all providers of telecommunications services, including such attachments used by cable television systems to provide telecommunications services (as defined in section 3 of this Act). Such regulations shall—

''(A) recognize that the entire pole, duct, conduit, or right-of-way other than the usable space is of equal benefit all entities attaching to the pole and therefore apportion the cost of the

space other than the usable space equally among all such attachments;

''(B) recognize that the usable space is of proportional benefit to all entities attaching to the pole, duct, conduit or right-of-way and therefore apportion the cost of the usable space according to the percentage of usable space required for each entity; and

''(C) allow for reasonable terms and conditions relating to health, safety, and the provision of reliable utility service.

''(2) The final regulations prescribed by the Commission pursuant to paragraph (1) shall not apply to a cable television system that solely provides cable service as defined in section 602(6) of this Act; instead, the pole attachment rate for such systems shall assure a utility the recovery of not less than the additional costs of providing pole attachments, nor more than an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct or conduit capacity, which is occupied by the pole attachment by the sum of the operating expenses and actual capital costs of the utility attributable to the entire pole, duct, conduit, or right-of-way.

''(3) Whenever the owner of a conduit or right-of-way intends to modify or alter such conduit or right-of-way, the owner shall provide written notification of such action to any entity that has obtained an attachment to such conduit or right-of-way so that such entity may have a reasonable opportunity to add to or modify its existing attachment. Any entity that adds to or modifies its existing attachment after receiving such notification shall bear a proportionate share of the costs incurred by the owner in making such conduit or right-of-way accessible.''.

SEC. 106. PREEMPTION OF FRANCHISING AUTHORITY REGULATION OF TELECOMMUNICATIONS SERVICES.

(a) TELECOMMUNICATIONS SERVICES.—Section 621(b) of the Act (47 U.S.C. 541(c)) is amended by adding at the end thereof the following new paragraph:

''(3)(A) To the extent that a cable operator or affiliate thereof is engaged in the provision of telecommunications services—

''(i) such cable operator or affiliate shall not be required to obtain a franchise under this title; and

''(ii) the provisions of this title shall not apply to such cable operator or affiliate.

''(B) A franchising authority may not impose any requirement that has the purpose or effect of prohibiting, limiting, restricting, or conditioning the provision of a telecommunications service by a cable operator or an affiliate thereof.

''(C) A franchising authority may not order a cable operator or affiliate thereof—

''(i) to discontinue the provision of a telecommunications service, or

''(ii) to discontinue the operation of a cable system, to the extent such cable system is used for the provision of a telecommunications service, by reason of the failure of such cable operator or affiliate thereof to obtain a franchise or franchise renewal under this title with respect to the provision of such telecommunications service.

''(D) A franchising authority may not require a cable operator to provide any telecommunications service or facilities as a condition of the initial grant of a franchise or a franchise renewal.''.

(b) FRANCHISE FEES.—Section 622(b) of the Act (47 U.S.C. 542(b)) is amended by inserting ''to provide cable services'' immediately before the period at the end of the first sentence thereof.

SEC. 107. FACILITIES SITING; RADIO FREQUENCY EMISSION STANDARDS.

(a) NATIONAL WIRELESS TELECOMMUNICATIONS SITING POLICY.—Section 332(c) of the Act (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:

''(7) FACILITIES SITING POLICIES.—(A) Within 180 days after enactment of this paragraph, the Commission shall prescribe and make effective a policy regarding State and local regulation of the placement, construction, modification, or operation of facilities for the provision of commercial mobile services.

''(B) Pursuant to subchapter III of chapter 5, title 5, United States Code, the Commission shall establish a negotiated rulemaking committee to negotiate and develop a proposed policy to comply with the requirements of this paragraph. Such committee shall include representatives from State and local governments, affected industries, and public safety agencies. In negotiating and developing such a policy, the committee shall take into account—

''(i) the desirability of enhancing the coverage and quality of commercial mobile services and fostering competition in the provision of such services;

''(ii) the legitimate interests of State and local governments in matters of exclusively local concern;

''(iii) the effect of State and local regulation of facilities siting on interstate commerce; and

''(iv) the administrative costs to State and local governments of reviewing requests for authorization to locate facilities for the provision of commercial mobile services.

''(C) The policy prescribed pursuant to this paragraph shall ensure that—

''(i) regulation of the placement, construction, and modification of facilities for the provision of commercial mobile services by any State or local government or instrumentality thereof—

''(I) is reasonable, nondiscriminatory, and limited to the minimum necessary to accomplish the State or local government's legitimate purposes; and

''(II) does not prohibit or have the effect of precluding any commercial mobile service; and

''(ii) a State or local government or instrumentality thereof shall act on any request for authorization to locate, construct, modify, or operate facilities for the provision of commercial mobile services within a reasonable period of time after the request is fully filed with such government or instrumentality; and

''(iii) any decision by a State or local government or instrumentality thereof to deny a request for authorization to locate, construct, modify, or operate facilities for the provision of commercial mobile services shall be in writing and shall be supported by substantial evidence contained in a written record.

''(D) The policy prescribed pursuant to this paragraph shall provide that no State or local government or any instrumentality thereof may regulate the placement, construction, modification, or operation of such facilities on the basis of the environmental effects of radio frequency emissions, to the extent that such facilities comply with the Commission's regulations concerning such emissions.

''(E) In accordance with subchapter III of chapter 5, title 5, United States Code, the Commission shall periodically establish a negotiated rulemaking committee to review the policy prescribed by the Commission under this paragraph and to recommend revisions to such policy.''.

(b) RADIO FREQUENCY EMISSIONS.—Within 180 days after the enactment of this Act, the Commission shall complete action in ET Docket 93–62 to prescribe and make effective rules regarding the environmental effects of radio frequency emissions.

(c) AVAILABILITY OF PROPERTY.—Within 180 days of the enactment of this Act, the Commission shall prescribe procedures by which Federal departments and agencies may make available on a fair, reasonable, and nondiscriminatory basis, property, rights-of-way, and easements under their control for the placement of new telecommunications facilities by duly licensed providers of telecommunications services that are dependent, in whole or in part, upon the utilization of Federal spectrum rights for the transmission or reception of such services. These procedures may establish a presumption that requests for the use of property, rights-of-way, and easements by duly authorized providers should be granted absent unavoidable direct conflict with the department or agency's mission, or the current or planned use of the property, rights-of-way, and easements in question. Reasonable cost-based fees may be charged to providers of such telecommunications services for use of property, rights-of-way, and easements. The Commission shall provide technical support to States to encourage them to make property, rights-of-way, and easements under their jurisdiction available for such purposes.

SEC. 108. MOBILE SERVICE ACCESS TO LONG DISTANCE CARRIERS.

(a) AMENDMENT.—Section 332(c) of the Act (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:

''(8) MOBILE SERVICES ACCESS.—(A) The Commission shall prescribe regulations to afford subscribers of two-way switched voice commercial mobile radio services access to a provider of telephone toll service of the subscriber's choice, except to the extent that the commercial mobile radio service is provided by satellite. The Commission may exempt carriers or classes of carriers from the requirements of such regulations to the extent the Commission determines such exemption is consistent with the public interest, convenience, and necessity. For purposes of this paragraph, 'access' shall mean access to a provider of telephone toll service through the use of carrier identification codes assigned to each such provider.

''(B) The regulations prescribed by the Commission pursuant to subparagraph (A) shall supersede any inconsistent requirements imposed by the Modification of Final Judgment or any order in United States v. AT&T Corp. and McCaw Cellular Communications, Inc., Civil Action No. 94–01555 (United States District Court, District of Columbia).''.

(b) EFFECTIVE DATE CONFORMING AMENDMENT.—Section 6002(c)(2)(B) of the Omnibus Budget Reconciliation Act of 1993 is amended by striking ''section 332(c)(6)'' and inserting ''paragraphs (6) and (8) of section 332(c)''.

SEC. 109. FREEDOM FROM TOLL FRAUD.

(a) AMENDMENT.—Section 228(c) of the Act (47 U.S.C. 228(c)) is amended—

(1) by striking subparagraph (C) of paragraph (7) and inserting the following:

''(C) the calling party being charged for information conveyed during the call unless—

''(i) the calling party has a written subscription agreement with the information provider that meets the requirements of paragraph (8); or

''(ii) the calling party is charged in accordance with paragraph (9); or''; and

(2) by adding at the end the following new paragraphs:

''(8) SUBSCRIPTION AGREEMENTS FOR BILLING FOR INFORMATION PROVIDED VIA TOLL-FREE CALLS.—

''(A) IN GENERAL.—For purposes of paragraph (7)(C)(i), a written subscription agreement shall specify the terms and conditions under which the information is offered and include—

''(i) the rate at which charges are assessed for the information;

''(ii) the information provider's name;

''(iii) the information provider's business address;

''(iv) the information provider's regular business telephone number;

''(v) the information provider's agreement to notify the subscriber at least 30 days in advance of all future changes in the rates charged for the information;

''(vi) the signature of a legally competent subscriber agreeing to the terms of the agreement; and

''(vii) the subscriber's choice of payment method, which may be by phone bill or credit, prepaid, or calling card.

''(B) BILLING ARRANGEMENTS.—If a subscriber elects, pursuant to subparagraph (A)(vii), to pay by means of a phone bill—

''(i) the agreement shall clearly explain that the subscriber will be assessed for calls made to the information service from the subscriber's phone line;

''(ii) the phone bill shall include, in prominent type, the following disclaimer:

'Common carriers may not disconnect local or long distance telephone service for failure to pay disputed charges for information services.'; and

''(iii) the phone bill shall clearly list the 800 number dialed.

''(C) USE OF PIN'S TO PREVENT UNAUTHORIZED USE.—A written agreement does not meet the requirements of this paragraph unless it provides the subscriber a personal identification number to obtain access to the information provided, and includes instructions on its use.

''(D) EXCEPTIONS.—Notwithstanding paragraph (7)(C), a written agreement that meets the requirements of this paragraph is not required—

''(i) for services provided pursuant to a tariff that has been approved or permitted to take effect by the Commission or a State commission; or

''(ii) for any purchase of goods or of services that are not information services.

''(E) TERMINATION OF SERVICE.—On complaint by any person, a carrier may terminate the provision of service to an information provider unless the provider supplies evidence of a written agreement that meets the requirements of this section. The remedies provided in this paragraph are in addition to any other remedies that are available under title V of this Act.

''(9) CHARGES BY CREDIT, PREPAID, OR CALLING CARD IN ABSENCE OF AGREEMENT.—For purposes of paragraph (7)(C)(ii), a calling party is not charged in accordance with this paragraph unless the calling party is charged by means of a credit, prepaid, or calling card and the information service provider includes in response to each call an introductory disclosure message that—

''(A) clearly states that there is a charge for the call;

''(B) clearly states the service's total cost per minute and any other fees for the service or for any service to which the caller may be transferred;

''(C) explains that the charges must be billed on either a credit, prepaid, or calling card;

''(D) asks the caller for the credit or calling card number;

''(E) clearly states that charges for the call begin at the end of the introductory message; and

''(F) clearly states that the caller can hang up at or before the end of the introductory message without incurring any charge whatsoever.

''(10) DEFINITION OF CALLING CARD.—As used in this subsection, the term 'calling card' means an identifying number or code unique to the individual, that is issued to the individual by a common carrier and enables the individual to be charged by means of a phone bill for charges incurred independent of where the call originates.''.

(b) REGULATIONS.—The Federal Communications Commission shall revise its regulations to comply with the amendment made by subsection (a) of this section within 180 days after the date of enactment of this Act.

SEC. 110. REPORT ON MEANS OF RESTRICTING ACCESS TO UNWANTED MATERIAL IN INTERACTIVE TELECOMMUNICATIONS SYSTEMS.

(a) REPORT.—Not later than 150 days after the date of the enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary and Commerce, Science, and Transportation of the Senate and the Committees on the Judiciary and Commerce of the House of Representatives a report containing—

(1) an evaluation of the enforceability with respect to interactive media of current criminal laws governing the distribution of obscenity over computer networks and the creation and distribution of child pornography by means of computers;

(2) an assessment of the Federal, State, and local law enforcement resources that are currently available to enforce such laws;

(3) an evaluation of the technical means available—

(A) to enable parents to exercise control over the information that their children receive by interactive telecommunications systems so that children may avoid violent, sexually explicit, harassing, offensive, and other unwanted material on such systems;

(B) to enable other users of such systems to exercise control over the commercial and noncommercial information that they receive by such systems so that such users may avoid violent, sexually explicit, harassing, offensive, and other unwanted material on such systems; and

(C) to promote the free flow of information, consistent with the values expressed in the Constitution, in interactive media; and

(4) recommendations on means of encouraging the development and deployment of technology, including computer hardware and software, to enable parents and other users of interactive telecommunications systems to exercise the control described in subparagraphs (A) and (B) of paragraph (3).

(b) CONSULTATION.—In preparing the report under subsection (a), the Attorney General shall consult with the Assistant Secretary of Commerce for Communications and Information.

SEC. 111. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to any other sums authorized by law, there are authorized to be appropriated to the Federal Communications Commission such sums as may be necessary to carry out this Act and the amendments made by this Act.

(b) EFFECT ON FEES.—For the purposes of section 9(b)(2) of the Act (47 U.S.C. 159(b)(2)), additional amounts appropriated pursuant to subsection (a) shall be construed to be changes in the amounts appropriated for the performance of activities described in section 9(a) of such Act.

TITLE II—CABLE COMMUNICATIONS COMPETITIVENESS

SEC. 201. CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES.

(a) GENERAL REQUIREMENT.—

(1) AMENDMENT.—Section 613(b) of the Act (47 U.S.C. 533(b)) is amended to read as follows:

''(b)(1) Subject to the requirements of part V and the other provisions of this title, any common carrier subject in whole or in part to title II of this Act may, either through its own facilities or through an affiliate, provide video programming directly to subscribers in its telephone service area.

''(2) Subject to the requirements of part V and the other provisions of this title, any common carrier subject in whole or in part to title II of this Act may provide channels of communications or pole, line, or conduit space, or other rental arrangements, to any entity which is directly or indirectly owned, operated, or controlled by, or under common control with, such common carrier, if such facilities or arrangements are to be used for, or in connection with, the provision of video programming directly to subscribers in its telephone service area.

''(3)(A) Notwithstanding paragraphs (1) and (2), an affiliate described in subparagraph (B) shall not be subject to the requirements of part V, but—

''(i) if providing video programming as a cable service using a cable system, shall be subject to the requirements of this part and parts III and IV; and

''(ii) if providing such video programming by means of radio communication, shall be subject to the requirements of title III.

''(B) For purposes of subparagraph (A), an affiliate is described in this subparagraph if such affiliate—

''(i) is, consistently with section 655, owned, operated, or controlled by, or under common control with, a common carrier subject in whole or in part to title II of this Act;

''(ii) provides video programming to subscribers in the telephone service area of such carrier; and

''(iii) does not utilize the local exchange facilities or services of any affiliated common carrier in distributing such programming.''.

(2) CONFORMING AMENDMENT.—Section 602 of the Act (47 U.S.C. 531) is amended—

(A) by redesignating paragraphs (18) and (19) as paragraphs (19) and (20) respectively; and

(B) by inserting after paragraph (17) the following new paragraph:

''(18) the term 'telephone service area' when used in connection with a common carrier subject in whole or in part to title II of this Act means the area within which such carrier provides telephone exchange service as of January 1, 1993, but if any common carrier after such date transfers its exchange service facilities to another common carrier, the area to which such facilities provide telephone exchange service shall be treated as part of the telephone service area of the acquiring common carrier and not of the selling common carrier;''.

(b) PROVISIONS FOR REGULATION OF CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES.—Title VI of the Act (47 U.S.C. 521 et seq.) is amended by adding at the end the following new part:

''PART V—VIDEO PROGRAMMING SERVICES PROVIDED BY TELEPHONE COMPANIES

''SEC. 651. DEFINITIONS.

''For purposes of this part—

''(1) the term 'control' means—

''(A) an ownership interest in which an entity has the right to vote more than 50 percent of the outstanding common stock or other ownership interest; or

''(B) if no single entity directly or indirectly has the right to vote more than 50 percent of the outstanding common stock or other ownership interest, actual working control, in whatever manner exercised, as defined by the Commission by regulation on the basis of relevant factors and circumstances, which shall include partnership and direct ownership interests, voting stock interests, the interests of officers and directors, and the aggregation of voting interests; and

''(2) the term 'rural area' means a geographic area that does not include either—

''(A) any incorporated or unincorporated place of 10,000 inhabitants or more, or any part thereof; or

''(B) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census.

''SEC. 652. SEPARATE VIDEO PROGRAMMING AFFILIATE.

''(a) IN GENERAL.—Except as provided in subsection (d) of this section and section 613(b)(3), a common carrier subject to title II of this Act shall not provide video programming directly to subscribers in its telephone service area unless such video programming is provided through a video programming affiliate that is separate from such carrier.

''(b) BOOKS AND MARKETING.—

''(1) IN GENERAL.—A video programming affiliate of a common carrier shall—

''(A) maintain books, records, and accounts separate from such carrier which identify all transactions with such carrier;

''(B) carry out directly (or through any nonaffiliated person) its own promotion, except that institutional advertising carried out by such carrier shall be permitted so long as each party bears its pro rata share of the costs; and

''(C) not own real or personal property in common with such carrier.

''(2) INBOUND TELEMARKETING AND REFERRAL.—Notwithstanding paragraph (1)(B), a common carrier may provide telemarketing or referral services in response to the call of a customer or potential customer related to the provision of video programming by a video programming affiliate of such carrier. If such services

are provided to a video programming affiliate, such services shall be made available to any video programmer or cable operator on request, on nondiscriminatory terms, at just and reasonable prices.

''(3) JOINT MARKETING.—Notwithstanding paragraph (1)(B) or section 613(b)(3), a common carrier may market video programming directly upon a showing to the Commission that a cable operator or other entity directly or indirectly provides telecommunications services within the telephone service area of the common carrier, and markets such telecommunications services jointly with video programming services. The common carrier shall specify the geographic region covered by the showing. The Commission shall approve or disapprove such showing within 60 days after the date of its submission.

''(c) BUSINESS TRANSACTIONS WITH CARRIER.—Any contract, agreement, arrangement, or other manner of conducting business, between a common carrier and its video programming affiliate, providing for—

''(1) the sale, exchange, or leasing of property between such affiliate and such carrier,

''(2) the furnishing of goods or services between such affiliate and such carrier, or

''(3) the transfer to or use by such affiliate for its benefit of any asset or resource of such carrier,

shall be on a fully compensatory and auditable basis, shall be without cost to the telephone service ratepayers of the carrier, and shall be in compliance with regulations established by the Commission that will enable the Commission to assess the compliance of any transaction.

''(d) WAIVER.—

''(1) CRITERIA FOR WAIVER.—The Commission may waive any of the requirements of this section for small telephone companies or telephone companies serving rural areas, if the Commission determines, after notice and comment, that—

''(A) such waiver will not affect the ability of the Commission to ensure that all video programming activity is carried out without any support from telephone ratepayers;

''(B) the interests of telephone ratepayers and cable subscribers will not be harmed if such waiver is granted;

''(C) such waiver will not adversely affect the ability of persons to obtain access to the video platform of such carrier; and

''(D) such waiver otherwise is in the public interest.

''(2) DEADLINE FOR ACTION.—The Commission shall act to approve or disapprove a waiver application within 180 days after the date it is filed.

''(3) CONTINUED APPLICABILITY OF SECTION 656.—In the case of a common carrier that obtains a waiver under this subsection, any requirement that section 656 applies to a video programming affiliate shall instead apply to such carrier.

''(e) SUNSET OF REQUIREMENTS.—The provisions of this section shall cease to be effective on July 1, 2000.

''SEC. 653. ESTABLISHMENT OF VIDEO PLATFORM.

''(a) VIDEO PLATFORM.—

''(1) IN GENERAL.—Except as provided in section 613(b)(3), any common carrier subject to title II of this Act, and that provides video programming directly to subscribers in its telephone service area, shall establish a video platform. This paragraph shall not apply to any carrier to the extent that it provides video programming directly to subscribers in its telephone service area solely through a cable system acquired in accordance with section 655(b).

''(2) IDENTIFICATION OF DEMAND FOR CARRIAGE.—Any common carrier subject to the requirements of paragraph (1) shall, prior to establishing a video platform, submit a notice to the Commission of its intention to establish channel capacity for the provision of video programming to meet the bona fide demand for such capacity. Such notice shall—

''(A) be in such form and contain information concerning the geographic area intended to be served and such information as the Commission may require by regulations pursuant to subsection (b);

''(B) specify the methods by which any entity seeking to use such channel capacity should submit to such carrier a specification of its channel capacity requirements; and

''(C) specify the procedures by which such carrier will determine (in accordance with the Commission's regulations under subsection (b)(1)(B)) whether such requests for capacity are bona fide.

The Commission shall submit any such notice for publication in the Federal Register within 5 working days.

''(3) RESPONSE TO REQUEST FOR CARRIAGE.—After receiving and reviewing the requests for capacity submitted pursuant to such notice, such common carrier shall establish channel capacity that is sufficient to provide carriage for—

''(A) all bona fide requests submitted pursuant to such notice,

''(B) any additional channels required pursuant to section 656, and

''(C) any additional channels required by the Commission's regulations under subsection (b)(1)(C).

''(4) RESPONSES TO CHANGES IN DEMAND FOR CAPACITY.—Any common carrier that establishes a video platform under this section shall—

''(A) immediately notify the Commission and each video programming provider of any delay in or denial of channel capacity or service, and the reasons therefor;

''(B) continue to receive and grant, to the extent of available capacity, carriage in response to bona fide requests for carriage from existing or additional video programming providers;

''(C) if at any time the number of channels required for bona fide requests for carriage may reasonably be expected soon to exceed the existing capacity of such video platform, immediately notify the Commission of such expectation and of the manner and date by which such carrier will provide sufficient capacity to meet such excess demand; and

''(D) construct such additional capacity as may be necessary to meet such excess demand.

''(5) DISPUTE RESOLUTION.—The Commission shall have the authority to resolve disputes under this section and the regulations prescribed thereunder. Any such dispute shall be resolved within 180 days after notice of such dispute is submitted to the Commission. At that time or subsequently in a separate damages proceeding, the Commission may award damages sustained in consequence of any violation of this section to any person denied carriage, or require carriage, or both. Any aggrieved party may seek any other remedy available under this Act.

''(b) COMMISSION ACTIONS.—

''(1) IN GENERAL.—Within 15 months after the date of the enactment of this section, the Commission shall complete all actions necessary (including any reconsideration) to prescribe regulations that—

''(A) consistent with the requirements of section 656, prohibit a common carrier from discriminating among video programming providers with regard to carriage on its video platform, and ensure that the rates, terms, and conditions for such carriage are just, reasonable, and nondiscriminatory;

''(B) prescribe definitions and criteria for the purposes of determining whether a request shall be considered a bona fide request for purposes of this section;

''(C) permit a common carrier to carry on only one channel any video programming service that is offered by more than one video programming provider (including the common carrier's video programming affiliate), provided that subscribers have ready and immediate access to any such video programming service;

''(D) extend to the distribution of video programming over video platforms the Commission's regulations concerning network nonduplication (47 C.F.R. 76.92 et seq.) and syndicated exclusivity (47 C.F.R. 76.151 et seq.);

''(E) require the video platform to provide service, transmission, and interconnection for unaffiliated or independent video programming providers that is equivalent to that provided to the common carrier's video programming affiliate, except that the video platform shall not discriminate between analog and digital video programming offered by such unaffiliated or independent video programming providers;

''(F)(i) prohibit a common carrier from unreasonably discriminating in favor of its video programming affiliate with regard to material or information provided by the common carrier to subscribers for the purposes of selecting programming on the video platform, or in the way such material or information is presented to subscribers;

''(ii) require a common carrier to ensure that video programming providers or copyright holders (or both) are able suitably and uniquely to identify their programming services to subscribers; and

''(iii) if such identification is transmitted as part of the programming signal, require the carrier to transmit such identification without change or alteration; and

''(G) prohibit a common carrier from excluding areas from its video platform service area on the basis of the ethnicity, race, or income of the residents of that area, and provide for public comments on the adequacy of the proposed service area on the basis of the standards set forth under this subparagraph.

Nothing in this section prohibits a common carrier or its affiliate from negotiating mutually agreeable terms and conditions with over-the-air broadcast stations and other unaffiliated video programming providers to allow consumer access to their signals on any level or screen of any gateway, menu, or other program guide, whether provided by the carrier or its affiliate.

''(2) APPLICABILITY TO OTHER HIGH CAPACITY SYSTEMS.—The Commission shall apply the requirements of this section, in lieu of the requirements of section 612, to any cable operator of a cable system that has installed a switched, broadband video programming delivery system, except that the Commission shall not apply the requirements of the regulations prescribed pursuant to subsection (b)(1)(D) or any other requirement that the Commission determines is inappropriate.

''(c) REGULATORY STREAMLINING.—With respect to the establishment and operation of a video platform, the requirements of this section shall apply in lieu of, and not in addition to, the requirements of title II.

''(d) COMMISSION INQUIRY.—The Commission shall conduct a study of whether it is in the public interest to extend the requirements of subsection (a) to any other cable operators in lieu of the requirements of section 612. The Commission shall submit to the Congress a report on the results of such study not later than 2 years after the date of enactment of this section.

''SEC. 654. AUTHORITY TO PROHIBIT CROSS-SUBSIDIZATION.

''Nothing in this part shall prohibit a State commission that regulates the rates for telephone exchange service or exchange access based on the cost of providing such service or access from—

''(1) prescribing regulations to prohibit a common carrier from engaging in any practice that results in the inclusion in rates for telephone exchange service or exchange access of any operating expenses, costs, depreciation charges, capital investments, or other expenses directly associated with the provision of competing video programming services by the common carrier or affiliate; or

''(2) ensuring such competing video programming services bear a reasonable share of the joint and common costs of facilities used to provide telephone exchange service or exchange access and competing video programming services.

"SEC. 655. PROHIBITION ON BUY OUTS.

"(a) GENERAL PROHIBITION.—No common carrier that provides telephone exchange service, and no entity owned by or under common ownership or control with such carrier, may purchase or otherwise obtain control over any cable system that is located within its telephone service area and is owned by an unaffiliated person.

"(b) EXCEPTIONS.—Notwithstanding subsection (a), a common carrier may—

"(1) obtain a controlling interest in, or form a joint venture or other partnership with, a cable system that serves a rural area;

"(2) obtain, in addition to any interest, joint venture, or partnership obtained or formed pursuant to paragraph (1), a controlling interest in, or form a joint venture or other partnership with, any cable system or systems if—

"(A) such systems in the aggregate serve less than 10 percent of the households in the telephone service area of such carrier; and

"(B) no such system serves a franchise area with more than 35,000 inhabitants, except that a common carrier may obtain such interest or form such joint venture or other partnership with a cable system that serves a franchise area with more than 35,000 but not more than 50,000 inhabitants if such system is not affiliated with any other system whose franchise area is contiguous to the franchise area of the acquired system;

"(3) obtain, with the concurrence of the cable operator on the rates, terms, and conditions, the use of that part of the transmission facilities of such a cable system extending from the last multi-user terminal to the premises of the end user, if such use is reasonably limited in scope and duration, as determined by the Commission; or

"(4) obtain a controlling interest in, or form a joint venture or other partnership with, or provide financing to, a cable system (hereinafter in this paragraph referred to as 'the subject cable system'), if—

"(A) the subject cable system operates in a television market that is not in the top 25 markets, and that has more than 1 cable system operator, and the subject cable system is not the largest cable system in such television market;

"(B) the subject cable system and the largest cable system in such television market held on May 1, 1995, cable television franchises from the largest municipality in the television market and the boundaries of such franchises were identical on such date;

"(C) the subject cable system is not owned by or under common ownership or control of any one of the 50 largest cable system operators as existed on May 1, 1995; and

"(D) the largest system in the television market is owned by or under common ownership or control of any one of the 10 largest cable system operators as existed on May 1, 1995.

"(c) WAIVER.—

"(1) CRITERIA FOR WAIVER.—The Commission may waive the restrictions in subsection (a) of this section only upon a showing by the applicant that—

"(A) because of the nature of the market served by the cable system concerned—

"(i) the incumbent cable operator would be subjected to undue economic distress by the enforcement of such subsection; or

"(ii) the cable system would not be economically viable if such subsection were enforced; and

"(B) the local franchising authority approves of such waiver.

"(2) DEADLINE FOR ACTION.—The Commission shall act to approve or disapprove a waiver application within 180 days after the date it is filed.

"SEC. 656. APPLICABILITY OF PARTS I THROUGH IV.

"(a) IN GENERAL.—Any provision that applies to a cable operator under—

"(1) sections 613 (other than subsection (a)(2) thereof), 616, 617, 628, 631, 632, and 634 of this title, shall apply,

"(2) sections 611, 612, 614, and 615 of this title, and section 325 of title III, shall apply in accordance with the regulations prescribed under subsection (b), and

"(3) parts III and IV (other than sections 628, 631, 632, and 634) of this title shall not apply,

to any video programming affiliate established by a common carrier in accordance with the requirements of this part.

"(b) IMPLEMENTATION.—

"(1) COMMISSION ACTION.—The Commission shall prescribe regulations to ensure that a common carrier in the operation of its video platform shall provide (A) capacity, services, facilities, and equipment for public, educational, and governmental use, (B) capacity for commercial use, (C) carriage of commercial and non-commercial broadcast television stations, and (D) an opportunity for commercial broadcast stations to choose between mandatory carriage and reimbursement for retransmission of the signal of such station. In prescribing such regulations, the Commission shall, to the extent possible, impose obligations that are no greater or lesser than the obligations contained in the provisions described in subsection (a)(2) of this section.

"(2) FEES.—A video programming affiliate of any common carrier that establishes a video platform under this part, and any multichannel video programming distributor offering a competing service using such video platform (as determined in accordance with regulations of the Commission), shall be subject to the payment of fees imposed by a local franchising authority, in lieu of the fees required under section 622. The rate at which such fees are imposed shall not exceed the rate at which franchise fees are imposed on any cable operator transmitting video programming in the same service area.

"SEC. 657. RURAL AREA EXEMPTION.

"The provisions of sections 652, 653, and 655 shall not apply to video programming provided in a rural area by a common carrier that provides telephone exchange service in the same area.".

SEC. 202. COMPETITION FROM CABLE SYSTEMS.

(a) DEFINITION OF CABLE SERVICE.—Section 602(6)(B) of the Act (47 U.S.C. 522(6)(B)) is amended by inserting "or use" after "the selection".

(b) CLUSTERING.—Section 613 of the Act (47 U.S.C. 533) is amended by adding at the end the following new subsection:

"(i) ACQUISITION OF CABLE SYSTEMS.—Except as provided in section 655, the Commission may not require divestiture of, or restrict or prevent the acquisition of, an ownership interest in a cable system by any person based in whole or in part on the geographic location of such cable system.".

(c) EQUIPMENT.—Section 623(a) of the Act (47 U.S.C. 543(a)) is amended—

(1) in paragraph (6)—

(A) by striking "paragraph (4)" and inserting "paragraph (5)";

(B) by striking "paragraph (5)" and inserting "paragraph (6)"; and

(C) by striking "paragraph (3)" and inserting "paragraph (4)";

(2) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) EQUIPMENT.—If the Commission finds that a cable system is subject to effective competition under subparagraph (D) of subsection (l)(1), the rates for equipment, installations, and connections for additional television receivers (other than equipment, installations, and connections furnished by such system to subscribers who receive only a rate regulated basic service tier) shall not be subject to regulation by the Commission or by a State or franchising authority. If the Commission finds that a cable system is subject to effective competition under subparagraph (A), (B), or (C) of subsection (l)(1), the rates for any equipment, installations, and connections furnished by such system to any subscriber shall not be subject to regulation by the Commission, or by a State or franchising authority. No Federal agency, State, or franchising authority may establish the price or rate for the installation, sale, or lease of any equipment furnished to any subscriber by a cable system solely in connection with video programming offered on a per channel or per program basis.".

(d) LIMITATION ON BASIC TIER RATE INCREASES; SCOPE OF REVIEW.—Section 623(a) of the Act (47 U.S.C. 543(a)) is further amended by adding at the end the following new paragraph:

"(8) LIMITATION ON BASIC TIER RATE INCREASES; SCOPE OF REVIEW.—A cable operator may not increase its basic service tier rate more than once every 6 months. Such increase may be implemented, using any reasonable billing or proration method, 30 days after providing notice to subscribers and the appropriate regulatory authority. The rate resulting from such increase shall be deemed reasonable and shall not be subject to reduction or refund if the franchising authority or the Commission, as appropriate, does not complete its review and issue a final order within 90 days after implementation of such increase. The review by the franchising authority or the Commission of any future increase in such rate shall be limited to the incremental change in such rate effected by such increase.".

(e) NATIONAL INFORMATION INFRASTRUCTURE DEVELOPMENT.—Section 623(a) of the Act (47 U.S.C. 543) is further amended by adding at the end the following new paragraph:

"(9) NATIONAL INFORMATION INFRASTRUCTURE.—

"(A) PURPOSE.—It is the purpose of this paragraph to—

"(i) promote the development of the National Information Infrastructure;

"(ii) enhance the competitiveness of the National Information Infrastructure by ensuring that cable operators have incentives comparable to other industries to develop such infrastructure; and

"(iii) encourage the rapid deployment of digital technology necessary to the development of the National Information Infrastructure.

"(B) AGGREGATION OF EQUIPMENT COSTS.—The Commission shall allow cable operators, pursuant to any rules promulgated under subsection (b)(3), to aggregate, on a franchise, system, regional, or company level, their equipment costs into broad categories, such as converter boxes, regardless of the varying levels of functionality of the equipment within each such broad category. Such aggregation shall not be permitted with respect to equipment used by subscribers who receive only a rate regulated basic service tier.

"(C) REVISION TO COMMISSION RULES; FORMS.—Within 120 days of the date of enactment of this paragraph, the Commission shall issue revisions to the appropriate rules and forms necessary to implement subparagraph (B).".

(f) COMPLAINT THRESHOLD; SCOPE OF COMMISSION REVIEW.—Section 623(c) of the Act (47 U.S.C. 543(c)) is amended—

(1) by striking paragraph (3) and inserting the following:

"(3) REVIEW OF COMPLAINTS.—

"(A) COMPLAINT THRESHOLD.—The Commission shall have the authority to review any increase in the rates for cable programming services implemented after the date of enactment of the Communications Act of 1995 only if, within 90 days after such increase becomes effective, at least 10 subscribers to such services or 5 percent of the subscribers to such services, whichever is greater, file separate, individual complaints against such increase with the Commission in accordance with the requirements established under paragraph (1)(B).

"(B) TIME PERIOD FOR COMMISSION REVIEW.—The Commission shall complete its review of any such increase and issue a final order within 90

days after it receives the number of complaints required by subparagraph (A).

''(4) TREATMENT OF PENDING CABLE PROGRAMMING SERVICES COMPLAINTS.—Upon enactment of the Communications Act of 1995, the Commission shall suspend the processing of all pending cable programming services rate complaints. These pending complaints shall be counted by the Commission toward the complaint threshold specified in paragraph (3)(A). Parties shall have an additional 90 days from the date of enactment of such Act to file complaints about prior increases in cable programming services rates if such rate increases were already subject to a valid, pending complaint on such date of enactment. At the expiration of such 90-day period, the Commission shall dismiss all pending cable programming services rate cases for which the complaint threshold has not been met, and may resume its review of those pending cable programming services rate cases for which the complaint threshold has been met, which review shall be completed within 180 days after the date of enactment of the Communications Act of 1995.

''(5) SCOPE OF COMMISSION REVIEW.—A cable programming services rate shall be deemed not unreasonable and shall not be subject to reduction or refund if—

''(A) such rate was not the subject of a pending complaint at the time of enactment of the Communications Act of 1995;

''(B) such rate was the subject of a complaint that was dismissed pursuant to paragraph (4);

''(C) such rate resulted from an increase for which the complaint threshold specified in paragraph (3)(A) has not been met;

''(D) the Commission does not complete its review and issue a final order in the time period specified in paragraph (3)(B) or (4); or

''(E) the Commission issues an order finding such rate to be not unreasonable.

The review by the Commission of any future increase in such rate shall be limited to the incremental change in such rate effected by such increase.'';

(2) in paragraph (1)(B) by striking ''obtain Commission consideration and resolution of whether the rate in question is unreasonable'' and inserting ''be counted toward the complaint threshold specified in paragraph (3)(A)''; and

(3) in paragraph (1)(C) by striking ''such complaint'' and inserting in lieu thereof ''the first complaint''.

(g) UNIFORM RATE STRUCTURE.—Section 623(d) of the Act (47 U.S.C. 543(d)) is amended to read as follows:

''(d) UNIFORM RATE STRUCTURE.—A cable operator shall have a uniform rate structure throughout its franchise area for the provision of cable services that are regulated by the Commission or the franchising authority. Bulk discounts to multiple dwelling units shall not be subject to this requirement.''.

(h) EFFECTIVE COMPETITION.—Section 623(l)(1) of the Act (47 U.S.C. 543(l)(1)) is amended—

(1) in subparagraph (B)(ii)—

(A) by inserting ''all'' before ''multichannel video programming distributors''; and

(B) by striking ''or'' at the end thereof;

(2) by striking the period at the end of subparagraph (C) and inserting ''; or''; and

(3) by adding at the end the following:

''(D) with respect to cable programming services and subscriber equipment, installations, and connections for additional television receivers (other than equipment, installations, and connections furnished to subscribers who receive only a rate regulated basic service tier)—

''(i) a common carrier has been authorized by the Commission to construct facilities to provide video dialtone service in the cable operator's franchise area;

''(ii) a common carrier has been authorized by the Commission or pursuant to a franchise to provide video programming directly to subscribers in the franchise area; or

''(iii) the Commission has completed all actions necessary (including any reconsideration) to prescribe regulations pursuant to section 653(b)(1) relating to video platforms.''.

(i) RELIEF FOR SMALL CABLE OPERATORS.—Section 623 of the Act (47 U.S.C. 543) is amended by adding at the end the following new subsection:

''(m) SMALL CABLE OPERATORS.—

''(1) SMALL CABLE OPERATOR RELIEF.—A small cable operator shall not be subject to subsections (a), (b), (c), or (d) in any franchise area with respect to the provision of cable programming services, or a basic service tier where such tier was the only tier offered in such area on December 31, 1994.

''(2) DEFINITION OF SMALL CABLE OPERATOR.—For purposes of this subsection, 'small cable operator' means a cable operator that—

''(A) directly or through an affiliate, serves in the aggregate fewer than 1 percent of all cable subscribers in the United States; and

''(B) is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.''.

(j) TECHNICAL STANDARDS.—Section 624(e) of the Act (47 U.S.C. 544(e)) is amended by striking the last two sentences and inserting the following: ''No State or franchising authority may prohibit, condition, or restrict a cable system's use of any type of subscriber equipment or any transmission technology.''.

(k) CABLE SECURITY SYSTEMS.—Section 624A(b)(2) of the Act (47 U.S.C. 544a(b)(2)) is amended to read as follows:

''(2) CABLE SECURITY SYSTEMS.—No Federal agency, State, or franchising authority may prohibit a cable operator's use of any security system (including scrambling, encryption, traps, and interdiction), except that the Commission may prohibit the use of any such system solely with respect to the delivery of a basic service tier that, as of January 1, 1995, contained only the signals and programming specified in section 623(b)(7)(A), unless the use of such system is necessary to prevent the unauthorized reception of such tier.''.

(l) CABLE EQUIPMENT COMPATIBILITY.—Section 624A of the Act (47 U.S.C. 544A), is amended—

(1) in subsection (a) by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ''; and''; and by adding at the end the following new paragraph:

''(4) compatibility among televisions, video cassette recorders, and cable systems can be assured with narrow technical standards that mandate a minimum degree of common design and operation, leaving all features, functions, protocols, and other product and service options for selection through open competition in the market.'';

(2) in subsection (c)(1)—

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(B) by inserting before such redesignated subparagraph (B) the following new subparagraph:

''(A) the need to maximize open competition in the market for all features, functions, protocols, and other product and service options of converter boxes and other cable converters unrelated to the descrambling or decryption of cable television signals;''; and

(3) in subsection (c)(2)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

''(D) to ensure that any standards or regulations developed under the authority of this section to ensure compatibility between televisions, video casette recorders, and cable systems do not affect features, functions, protocols, and other product and service options other than those specified in paragraph (1)(B), including telecommunications interface equipment, home automation communications, and computer network services;''.

(m) RETIERING OF BASIC TIER SERVICES.—Section 625(d) of the Act (47 U.S.C. 543(d)) is amended by adding at the end the following new sentence: ''Any signals or services carried on the basic service tier but not required under section 623(b)(7)(A) may be moved from the basic service tier at the operator's sole discretion, provided that the removal of such a signal or service from the basic service tier is permitted by contract. The movement of such signals or services to an unregulated package of services shall not subject such package to regulation.''.

(n) SUBSCRIBER NOTICE.—Section 632 of the Act (47 U.S.C. 552) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

''(c) SUBSCRIBER NOTICE.—A cable operator may provide notice of service and rate changes to subscribers using any reasonable written means at its sole discretion. Notwithstanding section 623(b)(6) or any other provision of this Act, a cable operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State, or franchising authority on the transaction between the operator and the subscriber.''.

(o) TREATMENT OF PRIOR YEAR LOSSES.—

(1) AMENDMENT.—Section 623 (48 U.S.C. 543) is amended by adding at the end thereof the following:

''(n) TREATMENT OF PRIOR YEAR LOSSES.—Notwithstanding any other provision of this section or of section 612, losses (including losses associated with the acquisitions of such franchise) that were incurred prior to September 4, 1992, with respect to a cable system that is owned and operated by the original franchisee of such system shall not be disallowed, in whole or in part, in the determination of whether the rates for any tier of service or any type of equipment that is subject to regulation under this section are lawful.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act and shall be applicable to any rate proposal filed on or after September 4, 1993.

SEC. 203. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES.

Title VII of the Act is amended by adding at the end the following new section:

''SEC. 713. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES.

''(a) DEFINITIONS.—As used in this section:

''(1) The term 'telecommunications subscription service' means the provision directly to subscribers of video, voice, or data services for which a subscriber charge is made.

''(2) The term 'telecommunications system' or a 'telecommunications system operator' means a provider of telecommunications subscription service.

''(b) COMPETITIVE CONSUMER AVAILABILITY OF CUSTOMER PREMISES EQUIPMENT.—The Commission shall adopt regulations to assure competitive availability, to consumers of telecommunications subscription services, of converter boxes, interactive communications devices, and other customer premises equipment from manufacturers, retailers, and other vendors not affiliated with any telecommunications system operator. Such regulations shall take into account the needs of owners and distributors of video programming and information services to ensure system and signal security and prevent theft of service. Such regulations shall not prohibit any telecommunications system operator from also offering devices and customer premises equipment to consumers, provided that the system operator's charges to consumers for such devices

and equipment are separately stated and not bundled with or subsidized by charges for any telecommunications subscription service.

''(c) WAIVER FOR NEW NETWORK SERVICES.—The Commission may waive a regulation adopted pursuant to subsection (b) for a limited time upon an appropriate showing by a telecommunications system operator that such waiver is necessary to the introduction of a new telecommunications subscription service.

''(d) SUNSET.—The regulations adopted pursuant to this section shall cease to apply to any market for the acquisition of converter boxes, interactive communications devices, or other customer premises equipment when the Commission determines that such market is competitive.''.

SEC. 204. VIDEO PROGRAMMING ACCESSIBILITY.

(a) COMMISSION INQUIRY.—Within 180 days after the date of enactment of this section, the Federal Communications Commission shall complete an inquiry to ascertain the level at which video programming is closed captioned. Such inquiry shall examine the extent to which existing or previously published programming is closed captioned, the size of the video programming provider or programming owner providing closed captioning, the size of the market served, the relative audience shares achieved, or any other related factors. The Commission shall submit to the Congress a report on the results of such inquiry.

(b) ACCOUNTABILITY CRITERIA.—Within 18 months after the date of enactment, the Commission shall prescribe such regulations as are necessary to implement this section. Such regulations shall ensure that—

(1) video programming first published or exhibited after the effective date of such regulations is fully accessible through the provision of closed captions, except as provided in subsection (d); and

(2) video programming providers or owners maximize the accessibility of video programming first published or exhibited prior to the effective date of such regulations through the provision of closed captions, except as provided in subsection (d).

(c) DEADLINES FOR CAPTIONING.—Such regulations shall include an appropriate schedule of deadlines for the provision of closed captioning of video programming.

(d) EXEMPTIONS.—Notwithstanding subsection (b)—

(1) the Commission may exempt by regulation programs, classes of programs, or services for which the Commission has determined that the provision of closed captioning would be economically burdensome to the provider or owner of such programming;

(2) a provider of video programming or the owner of any program carried by the provider shall not be obligated to supply closed captions if such action would be inconsistent with contracts in effect on the date of enactment of this Act, except that nothing in this section shall be construed to relieve a video programming provider of its obligations to provide services required by Federal law; and

(3) a provider of video programming or program owner may petition the Commission for an exemption from the requirements of this section, and the Commission may grant such petition upon a showing that the requirements contained in this section would result in an undue burden.

(e) UNDUE BURDEN.—The term ''undue burden'' means significant difficulty or expense. In determining whether the closed captions necessary to comply with the requirements of this paragraph would result in an undue economic burden, the factors to be considered include—

(1) the nature and cost of the closed captions for the programming;

(2) the impact on the operation of the provider or program owner;

(3) the financial resources of the provider or program owner; and

(4) the type of operations of the provider or program owner.

(f) VIDEO DESCRIPTIONS INQUIRY.—Within 6 months after the date of enactment of this Act, the Commission shall commence an inquiry to examine the use of video descriptions on video programming in order to ensure the accessibility of video programming to persons with visual impairments, and report to Congress on its findings. The Commission's report shall assess appropriate methods and schedules for phasing video descriptions into the marketplace, technical and quality standards for video descriptions, a definition of programming for which video descriptions would apply, and other technical and legal issues that the Commission deems appropriate. Following the completion of such inquiry, the Commission may adopt regulation it deems necessary to promote the accessibility of video programming to persons with visual impairments.

(g) VIDEO DESCRIPTION.—For purposes of this section, ''video description'' means the insertion of audio narrated descriptions of a television program's key visual elements into natural pauses between the program's dialogue.

(h) PRIVATE RIGHTS OF ACTIONS PROHIBITED.—Nothing in this section shall be construed to authorize any private right of action to enforce any requirement of this section or any regulation thereunder. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.

SEC. 205. TECHNICAL AMENDMENTS.

(a) RETRANSMISSION.—Section 325(b)(2)(D) of the Act (47 U.S.C. 325(b)(2)(D)) is amended to read as follows:

''(D) retransmission by a cable operator or other multichannel video programming distributor of the signal of a superstation if (i) the customers served by the cable operator or other multichannel video programming distributor reside outside the originating station's television market, as defined by the Commission for purposes of section 614(h)(1)(C); (ii) such signal was obtained from a satellite carrier or terrestrial microwave common carrier; and (iii) and the origination station was a superstation on May 1, 1991.''.

(b) MARKET DETERMINATIONS.—Section 614(h)(1)(C)(i) of the Act (47 U.S.C. 534(h)(1)(C)(i)) is amended by striking out ''in the manner provided in section 73.3555(d)(3)(i) of title 47, Code of Federal Regulations, as in effect on May 1, 1991,'' and inserting ''by the Commission by regulation or order using, where available, commercial publications which delineate television markets based on viewing patterns,''.

(c) TIME FOR DECISION.—Section 614(h)(1)(C)(iv) of such Act is amended to read as follows:

''(iv) Within 120 days after the date a request is filed under this subparagraph, the Commission shall grant or deny the request.''.

(d) PROCESSING OF PENDING COMPLAINTS.—The Commission shall, unless otherwise informed by the person making the request, assume that any person making a request to include or exclude additional communities under section 614(h)(1)(C) of such Act (as in effect prior to the date of enactment of this Act) continues to request such inclusion or exclusion under such section as amended under subsection (b).

TITLE III—BROADCAST COMMUNICATIONS COMPETITIVENESS

SEC. 301. BROADCASTER SPECTRUM FLEXIBILITY.

Title III of the Act is amended by inserting after section 335 (47 U.S.C. 335) the following new section:

''SEC. 336. BROADCAST SPECTRUM FLEXIBILITY.

''(a) COMMISSION ACTION.—If the Commission determines to issue additional licenses for advanced television services, the Commission shall—

''(1) limit the initial eligibility for such licenses to persons that, as of the date of such issuance, are licensed to operate a television broadcast station or hold a permit to construct such a station (or both); and

''(2) adopt regulations that allow such licensees or permittees to offer such ancillary or supplementary services on designated frequencies as may be consistent with the public interest, convenience, and necessity.

''(b) CONTENTS OF REGULATIONS.—In prescribing the regulations required by subsection (a), the Commission shall—

''(1) only permit such licensee or permittee to offer ancillary or supplementary services if the use of a designated frequency for such services is consistent with the technology or method designated by the Commission for the provision of advanced television services;

''(2) limit the broadcasting of ancillary or supplementary services on designated frequencies so as to avoid derogation of any advanced television services, including high definition television broadcasts, that the Commission may require using such frequencies;

''(3) apply to any other ancillary or supplementary service such of the Commission's regulations as are applicable to the offering of analogous services by any other person, except that no ancillary or supplementary service shall have any rights to carriage under section 614 or 615 or be deemed a multichannel video programming distributor for purposes of section 628;

''(4) adopt such technical and other requirements as may be necessary or appropriate to assure the quality of the signal used to provide advanced television services, and may adopt regulations that stipulate the minimum number of hours per day that such signal must be transmitted; and

''(5) prescribe such other regulations as may be necessary for the protection of the public interest, convenience, and necessity.

''(c) RECOVERY OF LICENSE.—

''(1) CONDITIONS REQUIRED.—If the Commission grants a license for advanced television services to a person that, as of the date of such issuance, is licensed to operate a television broadcast station or holds a permit to construct such a station (or both), the Commission shall, as a condition of such license, require that, upon a determination by the Commission pursuant to the regulations prescribed under paragraph (2), either the additional license or the original license held by the licensee be surrendered to the Commission in accordance with such regulations for reallocation or reassignment (or both) pursuant to Commission regulation.

''(2) CRITERIA.—The Commission shall prescribe criteria for rendering determinations concerning license surrender pursuant to license conditions required by paragraph (1). Such criteria shall—

''(A) require such determinations to be based, on a market-by-market basis, on whether the substantial majority of the public have obtained television receivers that are capable of receiving advanced television services; and

''(B) not require the cessation of the broadcasting under either the original or additional license if such cessation would render the television receivers of a substantial portion of the public useless, or otherwise cause undue burdens on the owners of such television receivers.

''(3) AUCTION OF RETURNED SPECTRUM.—Any license surrendered under the requirements of this subsection shall be subject to assignment by use of competitive bidding pursuant to section 309(j), notwithstanding any limitations contained in paragraph (2) of such section.

''(d) FEES.—

''(1) SERVICES TO WHICH FEES APPLY.—If the regulations prescribed pursuant to subsection (a) permit a licensee to offer ancillary or supplementary services on a designated frequency—

''(A) for which the payment of a subscription fee is required in order to receive such services, or

''(B) for which the licensee directly or indirectly receives compensation from a third party

in return for transmitting material furnished by such third party (other than commercial advertisements used to support broadcasting for which a subscription fee is not required),

the Commission shall establish a program to assess and collect from the licensee for such designated frequency an annual fee or other schedule or method of payment that promotes the objectives described in subparagraphs (A) and (B) of paragraph (2).

''(2) COLLECTION OF FEES.—The program required by paragraph (1) shall—

''(A) be designed (i) to recover for the public a portion of the value of the public spectrum resource made available for such commercial use, and (ii) to avoid unjust enrichment through the method employed to permit such uses of that resource;

''(B) recover for the public an amount that, to the extent feasible, equals but does not exceed (over the term of the license) the amount that would have been recovered had such services been licensed pursuant to the provisions of section 309(j) of this Act and the Commission's regulations thereunder; and

''(C) be adjusted by the Commission from time to time in order to continue to comply with the requirements of this paragraph.

''(3) TREATMENT OF REVENUES.—

''(A) GENERAL RULE.—Except as provided in subparagraph (B), all proceeds obtained pursuant to the regulations required by this subsection shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code.

''(B) RETENTION OF REVENUES.—Notwithstanding subparagraph (A), the salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by this section and regulating and supervising advanced television services. Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis.

''(4) REPORT.—Within 5 years after the date of the enactment of this section, the Commission shall report to the Congress on the implementation of the program required by this subsection, and shall annually thereafter advise the Congress on the amounts collected pursuant to such program.

''(e) EVALUATION.—Within 10 years after the date the Commission first issues additional licenses for advanced television services, the Commission shall conduct an evaluation of the advanced television services program. Such evaluation shall include—

''(1) an assessment of the willingness of consumers to purchase the television receivers necessary to receive broadcasts of advanced television services;

''(2) an assessment of alternative uses, including public safety use, of the frequencies used for such broadcasts; and

''(3) the extent to which the Commission has been or will be able to reduce the amount of spectrum assigned to licensees.

''(f) DEFINITIONS.—As used in this section:

''(1) ADVANCED TELEVISION SERVICES.—The term 'advanced television services' means television services provided using digital or other advanced technology as further defined in the opinion, report, and order of the Commission entitled 'Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service', MM Docket 87–268, adopted September 17, 1992, and successor proceedings.

''(2) DESIGNATED FREQUENCIES.—The term 'designated frequency' means each of the frequencies designated by the Commission for licenses for advanced television services.

''(3) HIGH DEFINITION TELEVISION.—The term 'high definition television' refers to systems that offer approximately twice the vertical and horizontal resolution of receivers generally available on the date of enactment of this section, as further defined in the proceedings described in paragraph (1) of this subsection.''.

SEC. 302. BROADCAST OWNERSHIP.

(a) AMENDMENT.—Title III of the Act is amended by inserting after section 336 (as added by section 301) the following new section:

''SEC. 337. BROADCAST OWNERSHIP.

''(a) LIMITATIONS ON COMMISSION RULEMAKING AUTHORITY.—Except as expressly permitted in this section, the Commission shall not prescribe or enforce any regulation—

''(1) prohibiting or limiting, either nationally or within any particular area, a person or entity from holding any form of ownership or other interest in two or more broadcasting stations or in a broadcasting station and any other medium of mass communication; or

''(2) prohibiting a person or entity from owning, operating, or controlling two or more networks of broadcasting stations or from owning, operating, or controlling a network of broadcasting stations and any other medium of mass communications.

''(b) TELEVISION OWNERSHIP LIMITATIONS.—

''(1) NATIONAL AUDIENCE REACH LIMITATIONS.—The Commission shall prohibit a person or entity from obtaining any license if such license would result in such person or entity directly or indirectly owning, operating, or controlling, or having a cognizable interest in, television stations which have an aggregate national audience reach exceeding—

''(A) 35 percent, for any determination made under this paragraph before one year after the date of enactment of this section; or

''(B) 50 percent, for any determination made under this paragraph on or after one year after such date of enactment.

Within 3 years after such date of enactment, the Commission shall conduct a study on the operation of this paragraph and submit a report to the Congress on the development of competition in the television marketplace and the need for any revisions to or elimination of this paragraph.

''(2) MULTIPLE LICENSES IN A MARKET.—

''(A) IN GENERAL.—The Commission shall prohibit a person or entity from obtaining any license if such license would result in such person or entity directly or indirectly owning, operating, or controlling, or having a cognizable interest in, two or more television stations within the same television market.

''(B) EXCEPTION FOR MULTIPLE UHF STATIONS AND FOR UHF-VHF COMBINATIONS.—Notwithstanding subparagraph (A), the Commission shall not prohibit a person or entity from directly or indirectly owning, operating, or controlling, or having a cognizable interest in, two television stations within the same television market if at least one of such stations is a UHF television, unless the Commission determines that permitting such ownership, operation, or control will harm competition or will harm the preservation of a diversity of media voices in the local television market.

''(C) EXCEPTION FOR VHF-VHF COMBINATIONS.—Notwithstanding subparagraph (A), the Commission may permit a person or entity to directly or indirectly own, operate, or control, or have a cognizable interest in, two VHF television stations within the same television market, if the Commission determines that permitting such ownership, operation, or control will not harm competition and will not harm the preservation of a diversity of media voices in the local television market.

''(c) LOCAL CROSS-MEDIA OWNERSHIP LIMITS.—In a proceeding to grant, renew, or authorize the assignment of any station license under this title, the Commission may deny the application if the Commission determines that the combination of such station and more than one other nonbroadcast media of mass communication would result in an undue concentration of media voices in the respective local market. In considering any such combination, the Commission shall not grant the application if all the media of mass communication in such local market would be owned, operated, or controlled by two or fewer persons or entities. This subsection shall not constitute authority for the Commission to prescribe regulations containing local cross-media ownership limitations. The Commission may not, under the authority of this subsection, require any person or entity to divest itself of any portion of any combination of stations and other media of mass communications that such person or entity owns, operates, or controls on the date of enactment of this section unless such person or entity acquires another station or other media of mass communications after such date in such local market.

''(d) TRANSITION PROVISIONS.—Any provision of any regulation prescribed before the date of enactment of this section that is inconsistent with the requirements of this section shall cease to be effective on such date of enactment. The Commission shall complete all actions (including any reconsideration) necessary to amend its regulations to conform to the requirements of this section not later than 6 months after such date of enactment. Nothing in this section shall be construed to prohibit the continuation or renewal of any television local marketing agreement that is in effect on such date of enactment and that is in compliance with Commission regulations on such date.''.

(b) CONFORMING AMENDMENT.—Section 613(a) of the Act (47 U.S.C. 533(a)) is repealed.

SEC. 303. FOREIGN INVESTMENT AND OWNERSHIP.

(a) STATION LICENSES.—Section 310(a) (47 U.S.C. 310(a)) is amended to read as follows:

''(a) GRANT TO OR HOLDING BY FOREIGN GOVERNMENT OR REPRESENTATIVE.—No station license required under title III of this Act shall be granted to or held by any foreign government or any representative thereof. This subsection shall not apply to licenses issued under such terms and conditions as the Commission may prescribe to mobile earth stations engaged in occasional or short-term transmissions via satellite of audio or television program material and auxilliary signals if such transmissions are not intended for direct reception by the general public in the United States.''.

(b) TERMINATION OF FOREIGN OWNERSHIP RESTRICTIONS.—Section 310 (47 U.S.C. 310) is amended by adding at the end thereof the following new subsection:

''(f) TERMINATION OF FOREIGN OWNERSHIP RESTRICTIONS.—

''(1) RESTRICTION NOT TO APPLY.—Subsection (b) shall not apply to any common carrier license granted, or for which application is made, after the date of enactment of this subsection with respect to any alien (or representative thereof), corporation, or foreign government (or representative thereof) if—

''(A) the President determines that the foreign country of which such alien is a citizen, in which such corporation is organized, or in which the foreign government is in control is party to an international agreement which requires the United States to provide national or most-favored-nation treatment in the grant of common carrier licenses; or

''(B) the Commission determines that not applying subsection (b) would serve the public interest.

''(2) COMMISSION CONSIDERATIONS.—In making its determination, under paragraph (1)(B), the Commission may consider, among other public interest factors, whether effective competitive opportunities are available to United States nationals or corporations in the applicant's home market. In evaluating the public interest, the Commission shall exercise great deference to the President with respect to United States national security, law enforcement requirements, foreign policy, the interpretation of international agreements, and trade policy (as well as direct investment as it relates to international trade policy).

Upon receipt of an application that requires a finding under this paragraph, the Commission shall cause notice thereof to be given to the President or any agencies designated by the President to receive such notification.

''(3) FURTHER COMMISSION REVIEW.—Except as otherwise provided in this paragraph, the Commission may determine that any foreign country with respect to which it has made a determination under paragraph (1) has ceased to meet the requirements for that determination. In making this determination, the Commission shall exercise great deference to the President with respect to United States national security, law enforcement requirements, foreign policy, the interpretation of international agreements, and trade policy (as well as direct investment as it relates to international trade policy). If a determination under this paragraph is made then—

''(A) subsection (b) shall apply with respect to such aliens, corporation, and government (or their representatives) on the date that the Commission publishes notice of its determination under this paragraph; and

''(B) any license held, or application filed, which could not be held or granted under subsection (b) shall be reviewed by the Commission under the provisions of paragraphs (1)(B) and (2).

''(4) OBSERVANCE OF INTERNATIONAL OBLIGATIONS.—Paragraph (3) shall not apply to the extent the President determines that it is inconsistent with any international agreement to which the United States is a party.

''(5) NOTIFICATIONS TO CONGRESS.—The President and the Commission shall notify the appropriate committees of the Congress of any determinations made under paragraph (1), (2), or (3).''.

SEC. 304. TERM OF LICENSES.

Section 307(c) of the Act (47 U.S.C. 307(c)) is amended to read as follows:

''(c) TERMS OF LICENSES.—

''(1) INITIAL AND RENEWAL LICENSES.—Each license granted for the operation of a broadcasting station shall be for a term of not to exceed seven years. Upon application therefor, a renewal of such license may be granted from time to time for a term of not to exceed seven years from the date of expiration of the preceding license, if the Commission finds that public interest, convenience, and necessity would be served thereby. Consistent with the foregoing provisions of this subsection, the Commission may by rule prescribe the period or periods for which licenses shall be granted and renewed for particular classes of stations, but the Commission may not adopt or follow any rule which would preclude it, in any case involving a station of a particular class, from granting or renewing a license for a shorter period than that prescribed for stations of such class if, in its judgment, public interest, convenience, or necessity would be served by such action.

''(2) MATERIALS IN APPLICATION.—In order to expedite action on applications for renewal of broadcasting station licenses and in order to avoid needless expense to applicants for such renewals, the Commission shall not require any such applicant to file any information which previously has been furnished to the Commission or which is not directly material to the considerations that affect the granting or denial of such application, but the Commission may require any new or additional facts it deems necessary to make its findings.

''(3) CONTINUATION PENDING DECISION.—Pending any hearing and final decision on such an application and the disposition of any petition for rehearing pursuant to section 405, the Commission shall continue such license in effect.''.

SEC. 305. BROADCAST LICENSE RENEWAL PROCEDURES.

(a) AMENDMENT.—Section 309 of the Act (47 U.S.C. 309) is amended by adding at the end thereof the following new subsection:

''(k) BROADCAST STATION RENEWAL PROCEDURES.—

''(1) STANDARDS FOR RENEWAL.—If the licensee of a broadcast station submits an application to the Commission for renewal of such license, the Commission shall grant the application if it finds, with respect to that station, during the preceding term of its license—

''(A) the station has served the public interest, convenience, and necessity;

''(B) there have been no serious violations by the licensee of this Act or the rules and regulations of the Commission; and

''(C) there have been no other violations by the licensee of this Act or the rules and regulations of the Commission which, taken together, would constitute a pattern of abuse.

''(2) CONSEQUENCE OF FAILURE TO MEET STANDARD.—If any licensee of a broadcast station fails to meet the requirements of this subsection, the Commission may deny the application for renewal in accordance with paragraph (3), or grant such application on terms and conditions as are appropriate, including renewal for a term less than the maximum otherwise permitted.

''(3) STANDARDS FOR DENIAL.—If the Commission determines, after notice and opportunity for a hearing as provided in subsection (e), that a licensee has failed to meet the requirements specified in paragraph (1) and that no mitigating factors justify the imposition of lesser sanctions, the Commission shall—

''(A) issue an order denying the renewal application filed by such licensee under section 308; and

''(B) only thereafter accept and consider such applications for a construction permit as may be filed under section 308 specifying the channel or broadcasting facilities of the former licensee.

''(4) COMPETITOR CONSIDERATION PROHIBITED.—In making the determinations specified in paragraph (1) or (2), the Commission shall not consider whether the public interest, convenience, and necessity might be served by the grant of a license to a person other than the renewal applicant.''.

(b) CONFORMING AMENDMENT.—Section 309(d) of the Act (47 U.S.C. 309(d)) is amended by inserting after ''with subsection (a)'' each place such term appears the following: ''(or subsection (k) in the case of renewal of any broadcast station license)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any application for renewal filed on or after May 31, 1995.

SEC. 306. EXCLUSIVE FEDERAL JURISDICTION OVER DIRECT BROADCAST SATELLITE SERVICE.

Section 303 of the Act (47 U.S.C. 303) is amended by adding at the end thereof the following new subsection:

''(v) Have exclusive jurisdiction over the regulation of the direct broadcast satellite service.''.

SEC. 307. AUTOMATED SHIP DISTRESS AND SAFETY SYSTEMS.

Notwithstanding any provision of the Act, a ship documented under the laws of the United States operating in accordance with the Global Maritime Distress and Safety System provisions of the Safety of Life at Sea Convention shall not be required to be equipped with a radio telegraphy station operated by one or more radio officers or operators.

SEC. 308. RESTRICTIONS ON OVER-THE-AIR RECEPTION DEVICES.

Within 180 days after the enactment of this Act, the Commission shall, pursuant to section 303, promulgate regulations to prohibit restrictions that inhibit a viewer's ability to receive video programming services through signal receiving devices designed for off-the-air reception of television broadcast signals or direct broadcast satellite services.

SEC. 309. DBS SIGNAL SECURITY.

Section 705(e)(4) of the Act (47 U.S.C. 605(e)) is amended by inserting after ''satellite cable programming'' the following: ''or programming of a licensee in the direct broadcast satellite service''.

TITLE IV—EFFECT ON OTHER LAWS

SEC. 401. RELATIONSHIP TO OTHER LAWS.

(a) MODIFICATION OF FINAL JUDGMENT.—Parts II and III of title II of the Communications Act of 1934 (as added by this Act) shall supersede the Modification of Final Judgment, except that such part shall not affect—

(1) section I of the Modification of Final Judgment, relating to AT&T reorganization,

(2) section II(A) (including appendix B) and II(B) of the Modification of Final Judgment, relating to equal access and nondiscrimination,

(3) section IV(F) and IV(I) of the Modification of Final Judgment, with respect to the requirements included in the definitions of ''exchange access'' and ''information access'',

(4) section VIII(B) of the Modification of Final Judgment, relating to printed advertising directories,

(5) section VIII(E) of the Modification of Final Judgment, relating to notice to customers of AT&T,

(6) section VIII(F) of the Modification of Final Judgment, relating to less than equal exchange access,

(7) section VIII(G) of the Modification of Final Judgment, relating to transfer of AT&T assets, including all exceptions granted thereunder before the date of the enactment of this Act, and

(8) with respect to the parts of the Modification of Final Judgment described in paragraphs (1) through (7)—

(A) section III of the Modification of Final Judgment, relating to applicability and effect,

(B) section IV of the Modification of Final Judgment, relating to definitions,

(C) section V of the Modification of Final Judgment, relating to compliance,

(D) section VI of the Modification of Final Judgment, relating to visitorial provisions,

(E) section VII of the Modification of Final Judgment, relating to retention of jurisdiction, and

(F) section VIII(I) of the Modification of Final Judgment, relating to the court's sua sponte authority.

(b) ANTITRUST LAWS.—Nothing in this Act shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws.

(c) FEDERAL, STATE, AND LOCAL LAW.—(1) Except as provided in paragraph (2), parts II and III of title II of the Communications Act of 1934 shall not be construed to modify, impair, or supersede Federal, State, or local law unless expressly so provided in such part.

(2) Parts II and III of title II of the Communications Act of 1934 shall supersede State and local law to the extent that such law would impair or prevent the operation of such part.

(d) TERMINATION.—The provisions of the GTE consent decree shall cease to be effective on the date of enactment of this Act. For purposes of this subsection, the term ''GTE consent decree'' means the order entered on December 21, 1984 (as restated on January 11, 1985), in United States v. GTE Corporation, Civil Action No. 83–1298, 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 December 21, 1984.

(e) INAPPLICABILITY OF FINAL JUDGMENT TO WIRELESS SUCCESSORS.—No person shall be subject to the provisions of the Modification of Final Judgment by reason of having acquired wireless exchange assets or operations previously owned by a Bell operating company or an affiliate of a Bell operating company.

(f) ANTITRUST LAWS.—As used in this section, 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.

SEC. 402. PREEMPTION OF LOCAL TAXATION WITH RESPECT TO DBS SERVICES.

(a) PREEMPTION.—A provider of direct-to-home satellite service, or its agent or representative for the sale or distribution of direct-to-home satellite services, shall be exempt from the collection or remittance, or both, of any tax or fee, as defined by subsection (b)(4), imposed by any local taxing jurisdiction with respect to the provision of direct-to-home satellite services. Nothing in this section shall be construed to exempt from collection or remittance any tax or fee on the sale of equipment.

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

(1) DIRECT-TO-HOME SATELLITE SERVICE.—The term ''direct-to-home satellite service'' means the transmission or broadcasting by satellite of programming 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) DIRECT-TO-HOME SATELLITE SERVICE PROVIDER.—For purposes of this section, a ''provider of direct-to-home satellite service'' means a person who transmits or broadcasts direct-to-home satellite services.

(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 with the authority to impose a tax or fee.

(4) 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) EFFECTIVE DATE.—This section shall be effective as of June 1, 1994.

TITLE V—DEFINITIONS

SEC. 501. DEFINITIONS.

(a) ADDITIONAL DEFINITIONS.—Section 3 of the Act (47 U.S.C. 153) is amended—

(1) in subsection (r)—

(A) by inserting ''(A)'' after ''means''; and

(B) by inserting before the period at the end the following: '', or (B) 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 within a State but which does not result in the subscriber incurring a telephone toll charge''; and

(2) by adding at the end thereof the following:

''(35) AFFILIATE.—The term 'affiliate', when used in relation to any person or entity, means another person or entity who owns or controls, is owned or controlled by, or is under common ownership or control with, such person or entity.

''(36) BELL OPERATING COMPANY.—The term 'Bell operating company' means—

''(A) 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;

''(B) any successor or assign of any such company that provides telephone exchange service.

''(37) CABLE SYSTEM.—The term 'cable system' has the meaning given such term in section 602(7) of this Act.

''(38) 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.

''(39) DIALING PARITY.—The term 'dialing parity' means that a person that is not an affiliated enterprise 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).

''(40) EXCHANGE ACCESS.—The term 'exchange access' means the offering of telephone exchange services or facilities for the purpose of the origination or termination of interLATA services.

''(41) 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.

''(42) 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.

''(43) LOCAL ACCESS AND TRANSPORT AREA.—The term 'local access and transport area' or 'LATA' means a contiguous geographic area—

''(A) established 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 Modification of Final Judgment before the date of the enactment of this paragraph; or

''(B) established or modified by a Bell operating company after the date of enactment of this paragraph and approved by the Commission.

''(44) 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), except to the extent that the Commission finds that such service as provided by such person in a State is a replacement for a substantial portion of the wireline telephone exchange service within such State.

''(45) MODIFICATION OF FINAL JUDGMENT.—The term 'Modification of Final Judgment' 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.

''(46) NUMBER PORTABILITY.—The term 'number portability' means the ability of users of telecommunications services to retain existing telecommunications numbers without impairment of quality, reliability, or convenience when changing from one provider of telecommunications services to another, as long as such user continues to be located within the area served by the same central office of the carrier from which the user is changing.

''(47) 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 recent 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 telephone exchange access service, 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 the date of enactment of this paragraph.

''(48) TELECOMMUNICATIONS.—The term 'telecommunications' means the transmission, between or among points specified by the subscriber, of information of the subscriber's choosing, without change in the form or content of the information as sent and received, by means of an electromagnetic transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission.

''(49) 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).

''(50) TELECOMMUNICATIONS SERVICE.—The term 'telecommunications service' means the offering, on a common carrier basis, of telecommunications facilities, or of telecommunications by means of such facilities. Such term does not include an information service.''.

(b) STYLISTIC CONSISTENCY.—Section 3 of the Act (47 U.S.C. 153) is amended—

(1) in subsections (e) and (n), by redesignating clauses (1), (2) and (3), as clauses (A), (B), and (C), respectively;

(2) in subsection (w), by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(3) in subsections (y) and (z), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(4) by redesignating subsections (a) through (ff) as paragraphs (1) through (32);

(5) by indenting such paragraphs 2 em spaces;

(6) by inserting after the designation of each such paragraph—

(A) a heading, in a form consistent with the form of the heading of this subsection, consisting of the term defined by such paragraph, or the first term so defined if such paragraph defines more than one term; and

(B) the words ''The term'';

(7) by changing the first letter of each defined term in such paragraphs from a capital to a lower case letter (except for ''United States'', ''State'', ''State commission'', and ''Great Lakes Agreement''); and

(8) by reordering such paragraphs and the additional paragraphs added by subsection (a) in alphabetical order based on the headings of such paragraphs and renumbering such paragraphs as so reordered.

(c) CONFORMING AMENDMENTS.—The Act is amended—

(1) in section 225(a)(1), by striking ''section 3(h)'' and inserting ''section 3'';

(2) in section 332(d), by striking ''section 3(n)'' each place it appears and inserting ''section 3''; and

(3) in sections 621(d)(3), 636(d), and 637(a)(2), by striking ''section 3(v)'' and inserting ''section 3''.

TITLE VI—SMALL BUSINESS COMPLAINT PROCEDURE

SEC. 601. COMPLAINT PROCEDURE.

(a) PROCEDURE REQUIRED.—The Federal Communications Commission shall establish procedures for the receipt and review of complaints concerning violations of the Communications Act of 1934, and the rules and regulations thereunder, that are likely to result, or have resulted, as a result of the violation, in material financial harm to a provider of telemessaging service, or other small business engaged in providing an information service or other telecommunications service. Such procedures shall be established within 120 days after the date of enactment of this Act.

(b) DEADLINES FOR PROCEDURES; SANCTIONS.—The procedures under this section shall ensure that the Commission will make a final determination with respect to any such complaint within 120 days after receipt of the complaint. If the complaint contains an appropriate showing that the alleged violation occurred, as determined by the Commission in accordance with such regulations, the Commission shall, within 60 days after receipt of the complaint, order the common carrier and its affiliates to cease engaging in such violation pending such final determination. In addition, the Commission may exercise its authority to impose other penalties or sanctions, to the extent otherwise provided by law.

(c) DEFINITION.—For purposes of this section, a small business shall be any business entity that, along with any affiliate or subsidiary, has fewer than 300 employees.

The CHAIRMAN. Before consideration of any other amendment, it shall be in order to consider the amendment printed in part 1 of House Report 104–223, which may be offered only by a Member designated in the report, shall be considered read, shall be debatable for 30 minutes, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

If that amendment is adopted, the bill, as amended, shall be considered as the original bill for the purpose of further amendment.

No further amendment shall be in order except the amendments printed in part 2 of the report, which may be considered in the order printed in the report, may be offered only by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, except as specified in the report, and shall not be subject to a demand for division of the question.

The Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment and may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall not be less than 15 minutes.

Pursuant to the order of the House of the legislative day of Thursday, August 3, 1995, consideration in the Committee of the Whole shall proceed without intervening motion except for the amendments printed in the report and one motion to rise, if offered by the gentleman from Virginia [Mr. BLILEY].

The gentleman from Michigan [Mr. CONYERS] shall have permission to modify the amendment numbered 2–2 printed in the report.

It is now in order to consider the amendment numbered 1–1 printed in part 1 of House Reports 104–223.

AMENDMENT NO. 1–1 OFFERED BY MR. BLILEY

Mr. BLILEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1–1 offered by Mr. BLILEY:

[1. Resale]

Page 5, beginning on line 19, strike paragraph (3) and insert the following:

''(3) RESALE.—The duty—

''(A) to offer services, elements, features, functions, and capabilities for resale at wholesale rates, and

''(B) not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of such services, elements, features, functions, and capabilities, on a bundled or unbundled basis, except that a carrier may prohibit a reseller that obtains at wholesale rates a service, element, feature, function, or capability that is available at retail only to a category of subscribers from offering such service, element, feature, function, or capability to a different category of subscribers.

For the purposes of this paragraph, wholesale rates shall be determined on the basis of retail rates for the service, element, feature, function, or capability provided, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that are avoided by the local exchange carrier.

[2. Entry Schedule]

Page 10, line 1, strike ''15 months'' and insert ''6 months''.

Page 12, line 13, strike ''245(d)'' and insert ''245(c)''.

Page 19, line 19, strike ''18 months'' and insert ''6 months''.

Page 20, line 5, strike ''(d)(2)'' and insert ''(c)(2)''.

Page 24, beginning on line 1, strike subsection (c) through page 26, line 5, (and redesignate the succeeding subsections accordingly).

Page 27, line 25, strike ''(d)'' and insert ''(c)''.

Page 28, line 25, strike ''(g) and (h)'' and insert ''(f), (g), and (h)''.

Page 29, lines 9 and 12, strike ''subsection (d)'' and insert ''subsection (c)''.

Page 29, line 14, strike ''subsection (f)'' and insert ''subsection (e)''.

Page 30, line 2, strike ''(f)'' and insert ''(e)''.

Page 40, line 20, strike ''270 days'' and insert ''6 months''.

[3. State/Federal Coordination]

Page 10, after line 8, insert the following new subparagraph (and redesignate the succeeding subparagraphs accordingly):

''(B) ACCOMMODATION OF STATE ACCESS REGULATIONS.—In prescribing and enforcing regulations to implement the requirements of this section, the Commission shall not preclude the enforcement of any regulation, order, or policy of a State commission that—

''(i) establishes access and interconnection obligations of local exchange carriers;

''(ii) is consistent with the requirements of this section; and

''(iii) does not substantially prevent the Commission from fulfilling the requirements of this section and the purposes of this part.

Page 14, strike lines 1 through 7 and insert the following:

''(h) AVOIDANCE OF REDUNDANT REGULATIONS.—

''(1) COMMISSION REGULATIONS.—Nothing in this section shall be construed to prohibit the Commission from enforcing regulations prescribed prior to the date of enactment of this part in fulfilling the requirements of this section, to the extent that such regulations are consistent with the provisions of this section.

''(2) STATE REGULATIONS.—Nothing in this section shall be construed to prohibit any State commission from enforcing regulations prescribed prior to the date of enactment of this part, or from prescribing regulations after such date of enactment, in fulfilling the requirements of this section, if (A) such regulations are consistent with the provisions of this section, and (B) the enforcement of such regulations has not been precluded under subsection (b)(4)(B).

Page 42, after line 2, insert the following new sentence:

In establishing criteria and procedures pursuant to this paragraph, the Commission shall take into account and accommodate, to the extent reasonable and consistent with the purposes of this section, the criteria and procedures established for such purposes by State commissions prior to the effective date of the Commission's criteria and procedures under this section.

Page 45, strike lines 12 through 18 and insert the following:

''(g) AVOIDANCE OF REDUNDANT REGULATIONS.—

''(1) COMMISSION REGULATIONS.—Nothing in this section shall be construed to prohibit the Commission from enforcing regulations prescribed prior to the date of enactment of this part in fulfilling the requirements of this section, to the extent that such regulations are consistent with the provisions of this section.

''(2) STATE REGULATIONS.—Nothing in this section shall be construed to prohibit any State commission from enforcing regulations prescribed prior to the effective date of the Commission's criteria and procedures under this section in fulfilling the requirements of this section, or from prescribing regulations after such date, to the extent such regulations are consistent—

''(A) with the provisions of this section; and

''(B) after such effective date, with such criteria and procedures.

Page 77, line 18, insert ''of the Commission'' after ''any regulation''.

[4. Joint Marketing]

Page 12, beginning on line 15, strike paragraph (2) through page 13, line 2, and insert the following:

''(2) COMPETING PROVIDERS.—Paragraph (1) shall not prohibit joint marketing of services, elements, features, functions, or capabilities acquired from a Bell operating company by an unaffiliated provider that, together with its affiliates, has in the aggregate less than 2 percent of the access lines installed nationwide.

[5. Rural Telephone Exemption]

Page 13, beginning on line 10, strike '', technologically infeasible'' and all that follows through line 11 and insert ''or technologically infeasible.''.

Page 13, beginning on line 12, strike subsections (f) and (g) through line 24 and insert the following:

(f) EXEMPTION FOR CERTAIN RURAL TELEPHONE COMPANIES.—Subsections (a) through (d) of this section shall not apply to a rural telephone company, until such company has received a bona fide request for services, elements, features or capabilities described in subsections (a) through (d). Following a bona fide request to the carrier and notice of the request to the State commission, the State commission shall determine within 120 days whether the request would be unduly economically burdensome, be technologically infeasible, and be consistent with subsections (b)(1) through (b)(5), (c)(1), and (c)(3) of section 247. The exemption provided by this subsection shall not apply if such carrier provides video programming services over its telephone exchange facilities in its telephone service area.

(g) TIME AND MANNER OF COMPLIANCE.—The State shall establish, after determining pursuant to subsection (f) that a bona fide request is not economically burdensome, is technologically feasible, and is consistent with subsections (b)(1) through (b)(5), (c)(1), and (c)(3) of section 247, an implementation schedule for compliance with such approved bona fide request that is consistent in time and manner with Commission rules.

Page 45, line 3, strike ''INTERSTATE'', and on line 4, strike ''interstate''.

[6. Management of Rights-of-Way]

Page 14, line 21, strike ''Nothing in this'' and insert the following:

''(1) IN GENERAL.—Nothing in this

Page 14, line 22, strike ''or local''.

Page 15, after line 6, insert the following new paragraph:

''(2) MANAGEMENT OF RIGHTS-OF-WAY.—Nothing in subsection (a) of this section shall affect the authority of a local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of public rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government.''.

[7. Facilities-Based Competitor]

Page 20, beginning on line 8, strike subparagraph (A) through line 18 and insert the following:

''(A) PRESENCE OF A FACILITIES-BASED COMPETITOR.—An agreement that has been approved under section 244 specifying the terms and conditions under which the Bell operating company is providing access and interconnection to its network facilities in accordance with section 242 for the network facilities of an unaffiliated competing provider of telephone exchange service (as defined in section 3(44)(A), but excluding exchange access service) to residential and business subscribers. For the purpose of this subparagraph, such telephone exchange service may be offered by such competing provider either exclusively over its own telephone exchange service facilities or predominantly over its own telephone exchange service facilities in combination with the resale of the services of another carrier. For the purpose of this subparagraph, services provided pursuant to subpart K of part 22 of the Commission's regulations (47 C.F.R. 22.901 et seq.) shall not be considered to be telephone exchange services.

Page 21, line 2, strike ''243'' and insert ''244''.

[8. Entry Consultations with the Attorney General]

Page 27, after line 3, insert the following new paragraph:

''(3) CONSULTATION WITH THE ATTORNEY GENERAL.—The Commission shall notify the Attorney General promptly of any verification submitted for approval under this subsection, and shall identify any verification that, if approved, would relieve the Bell operating company and its affiliates of the prohibition concerning manufacturing contained in section 271(a). Before making any determination under this subsection, the Commission shall consult with the Attorney General, and if the Attorney General submits any comments in writing, such comments shall be included in the record of the Commission's decision. In consulting with and submitting comments to the Commission under this paragraph, the Attorney General shall provide to the Commission an evaluation of whether there is a dangerous probability that the Bell operating company or its affiliates would successfully use market power to substantially impede competition in the market such company seeks to enter. In consulting with and submitting comments to the Commission under this paragraph with respect to a verification that, if approved, would relieve the Bell operating company and its affiliates of the prohibition concerning manufacturing contained in section 271(a), the Attorney General shall also provide to the Commission an evaluation of whether there is a dangerous probability that the Bell operating company or its affiliates would successfully use market power to substantially impede competition in manufacturing.

Page 27, lines 4 and 12, redesignate paragraphs (3) and (4) as paragraphs (4) and (5), respectively.

[9. Out-of-Region Services]

Page 31, after line 21, insert the following new subsection (and redesignate the succeeding subsections accordingly):

''(h) OUT-OF-REGION SERVICES.—When a Bell operating company and its affiliates have obtained Commission approval under subsection (c) for each State in which such Bell operating company and its affiliates provide telephone exchange service on the date of enactment of this part, such Bell operating company and any affiliate thereof may, notwithstanding subsection (e), provide interLATA services—

''(1) for calls originating in, and billed to a customer in, a State in which neither such company nor any affiliate provided telephone exchange service on such date of enactment; or

''(2) for calls originating outside the United States.

Page 30, beginning on line 20, strike ''between local access and transport areas within a cable system franchise area'' and insert ''and that is located within a State''.

[10. Separate Subsidiary]

At each of the following locations insert ''interLATA'' before ''information'': Page 33, line 8; page 35, lines 9, 16, and 20; and page 36, lines 3 and 10.

Page 33, line 11, after the period insert the following: ''The requirements of this section shall not apply with respect to (1) activities in which a Bell operating company or affiliate may engage pursuant to section 245(f), or (2) incidental services in which a Bell operating company or affiliate may engage pursuant to section 245(g), other than services described in paragraph (4) of such section.''.

Page 37, beginning on line 20, strike subsection (k) and insert the following:

''(k) SUNSET.—The provisions of this section shall cease to apply to any Bell operating company in any State 18 months after the date such Bell operating company is authorized pursuant to section 245(c) to provide interLATA telecommunications services in such State.

[11. Pricing Flexibility: Prohibition on Cross Subsidies]

Page 42, after line 22, insert the following new paragraph:

''(4) RESPONSE TO COMPETITION.—Pricing flexibility implemented pursuant to this subsection shall permit regulated telecommunications providers to respond fairly to competition by repricing services subject to competition, but shall not have the effect of changing prices for noncompetitive services or using noncompetitive services to subsidize competitive services.

[12. Accessibility]

Page 47, beginning on line 17, strike ''whenever an undue burden'' and all that follows through ''paragraph (1),'' on line 19 and insert the following: ''whenever the requirements of paragraph (1) are not readily achievable,''.

Page 47, beginning on line 24, strike ''would result in'' and all that follows through line 25 and insert the following: ''is not readily achievable.''.

Page 48, beginning on line 1, strike paragraphs (3) and (4) through page 49, line 7, and insert the following:

''(3) READILY ACHIEVABLE.—The term 'readily achievable' has the meaning given it by section 301(g) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(g)).

Page 49, line 8, redesignate paragraph (5) as paragraph (4).

[13. Media Voices]

Page 50, line 5, strike ''points of view'' and insert ''media voices''.

[14. Slamming]

Page 50, line 23, insert ''(a) PROHIBITION.—'' before ''No common carrier'', and on page 51, after line 4, insert the following new subsection:

''(b) LIABILITY FOR CHARGES.—Any common carrier that violates the verification procedures described in subsection (a) and that collects charges for telephone exchange service or telephone toll service from a subscriber shall be liable to the carrier previously selected by the subscriber in an amount equal to all charges paid by such subscriber after such violation, in accordance with such procedures as the Commission may prescribe. The remedies provided by this subsection are in addition to any other remedies available by law.

[15. Study Frequency]

Page 51, line 6, strike ''At least once every three years,'' and insert ''Within 3 years after the date of enactment of this part,''.

[16. Territorial Exemption]

Page 51, beginning on line 23, strike section 253 through page 52, line 6, and conform the table of contents accordingly.

Page 51, insert close quotation marks and a period at the end of line 22.

[17. Manufacturing Separate Subsidiary]

Page 54, beginning on line 5, strike subsections (a) and (b) and insert the following:

''(a) LIMITATIONS ON MANUFACTURING.—

''(1) ACCESS AND INTERCONNECTION REQUIRED.—It shall be unlawful for a Bell operating company, directly or through an affiliate, to manufacture telecommunications equipment or customer premises equipment, until the Commission has approved under section 245(c) verifications that such Bell operating company, and each Bell operating company with which it is affiliated, are in compliance with the access and interconnection requirements of part II of this title.

''(2) SEPARATE SUBSIDIARY REQUIRED.—During the first 18 months after the expiration of the limitation contained in paragraph (1), a Bell operating company may engage in manufacturing telecommunications equipment or customer premises equipment only

through a separate subsidiary established and operated in accordance with section 246.

''(b) COLLABORATION; RESEARCH AND ROYALTY AGREEMENTS.—

''(1) COLLABORATION.—Subsection (a) shall not prohibit a Bell operating company from engaging in close collaboration with any manufacturer of customer premises equipment or telecommunications equipment during the design and development of hardware, software, or combinations thereof related to such equipment.

''(2) RESEARCH; ROYALTY AGREEMENTS.—Subsection (a) shall not prohibit a Bell operating company, directly or through an subsidiary, from—

''(A) engaging in any research activities related to manufacturing, and

''(B) entering into royalty agreements with manufacturers of telecommunications equipment.

[18. Manufacturing by Standard-Setting Organizations]

Page 56, beginning on line 1, strike subsection (d) through page 57, line 11, and insert the following:

''(d) MANUFACTURING LIMITATIONS FOR STANDARD-SETTING ORGANIZATIONS.—

''(1) APPLICATION TO BELL COMMUNICATIONS RESEARCH OR MANUFACTURERS.—Bell Communications Research, Inc., or any successor entity or affiliate—

''(A) shall not be considered a Bell operating company or a successor or assign of a Bell operating company at such time as it is no longer an affiliate of any Bell operating company; and

''(B) notwithstanding paragraph (3), shall not engage in manufacturing telecommunications equipment or customer premises equipment as long as it is an affiliate of more than 1 otherwise unaffiliated Bell operating company or successor or assign of any such company.

Nothing in this subsection prohibits Bell Communications Research, Inc., or any successor entity, from engaging in any activity in which it is lawfully engaged on the date of enactment of this subsection. Nothing provided in this subsection shall render Bell Communications Research, Inc., or any successor entity, a common carrier under title II of this Act. Nothing in this section restricts any manufacturer from engaging in any activity in which it is lawfully engaged on the date of enactment of this section.

''(2) PROPRIETARY INFORMATION.—Any entity which establishes standards for telecommunications equipment or customer premises equipment, or generic network requirements for such equipment, or certifies telecommunications equipment, or customer premises equipment, shall be prohibited from releasing or otherwise using any proprietary information, designated as such by its owner, in its possession as a result of such activity, for any purpose other than purposes authorized in writing by the owner of such information, even after such entity ceases to be so engaged.

''(3) MANUFACTURING SAFEGUARDS.—(A) Except as prohibited in paragraph (1), and subject to paragraph (6), any entity which certifies telecommunications equipment or customer premises equipment manufactured by an unaffiliated entity shall only manufacture a particular class of telecommunications equipment or customer premises equipment for which it is undertaking or has undertaken, during the previous 18 months, certification activity for such class of equipment through a separate affiliate.

''(B) Such separate affiliate shall—

''(i) maintain books, records, and accounts separate from those of the entity that certifies such equipment, consistent with generally acceptable accounting principles;

''(ii) not engage in any joint manufacturing activities with such entity; and

''(iii) have segregated facilities and separate employees with such entity.

''(C) Such entity that certifies such equipment shall—

''(i) not discriminate in favor of its manufacturing affiliate in the establishment of standards, generic requirements, or product certification;

''(ii) not disclose to the manufacturing affiliate any proprietary information that has been received at any time from an unaffiliated manufacturer, unless authorized in writing by the owner of the information; and

''(iii) not permit any employee engaged in product certification for telecommunications equipment or customer premises equipment to engage jointly in sales or marketing of any such equipment with the affiliated manufacturer.

''(4) STANDARD-SETTING ENTITIES.—Any entity which is not an accredited standards development organization and which establishes industry-wide standards for telecommunications equipment or customer premises equipment, or industry-wide generic network requirements for such equipment, or which certifies telecommunications equipment or customer premises equipment manufactured by an unaffiliated entity, shall—

''(A) establish and publish any industry-wide standard for, industry-wide generic requirement for, or any substantial modification of an existing industry-wide standard or industry-wide generic requirement for, telecommunications equipment or customer premises equipment only in compliance with the following procedure:

''(i) such entity shall issue a public notice of its consideration of a proposed industry-wide standard or industry-wide generic requirement;

''(ii) such entity shall issue a public invitation to interested industry parties to fund and participate in such efforts on a reasonable and nondiscriminatory basis, administered in such a manner as not to unreasonably exclude any interested industry party;

''(iii) such entity shall publish a text for comment by such parties as have agreed to participate in the process pursuant to clause (ii), provide such parties a full opportunity to submit comments, and respond to comments from such parties;

''(iv) such entity shall publish a final text of the industry-wide standard or industry-wide generic requirement, including the comments in their entirety, of any funding party which requests to have its comments so published;

''(v) such entity shall attempt, prior to publishing a text for comment, to agree with the funding parties as a group on a mutually satisfactory dispute resolution process which such parties shall utilize as their sole recourse in the event of a dispute on technical issues as to which there is disagreement between any funding party and the entity conducting such activities, except that if no dispute resolution process is agreed to by all the parties, a funding party may utilize the dispute resolution procedures established pursuant to paragraph (5) of this subsection;

''(B) engage in product certification for telecommunications equipment or customer premises equipment manufactured by unaffiliated entities only if—

''(i) such activity is performed pursuant to published criteria;

''(ii) such activity is performed pursuant to auditable criteria; and

''(iii) such activity is performed pursuant to available industry-accepted testing methods and standards, where applicable, unless otherwise agreed upon by the parties funding and performing such activity;

''(C) not undertake any actions to monopolize or attempt to monopolize the market for such services; and

''(D) not preferentially treat its own telecommunications equipment or customer premises equipment, or that of its affiliate, over that of any other entity in establishing and publishing industry-wide standards or industry-wide generic requirements for, and in certification of, telecommunications equipment and customer premises equipment.

''(5) ALTERNATE DISPUTE RESOLUTION.—Within 90 days after the date of enactment of this section, the Commission shall prescribe a dispute resolution process to be utilized in the event that a dispute resolution process is not agreed upon by all the parties when establishing and publishing any industry-wide standard or industry-wide generic requirement for telecommunications equipment or customer premises equipment, pursuant to paragraph (4)(A)(v). The Commission shall not establish itself as a party to the dispute resolution process. Such dispute resolution process shall permit any funding party to resolve a dispute with the entity conducting the activity that significantly affects such funding party's interests, in an open, nondiscriminatory, and unbiased fashion, within 30 days after the filing of such dispute. Such disputes may be filed within 15 days after the date the funding party receives a response to its comments from the entity conducting the activity. The Commission shall establish penalties to be assessed for delays caused by referral of frivolous disputes to the dispute resolution process. The overall intent of establishing this dispute resolution provision is to enable all interested funding parties an equal opportunity to influence the final resolution of the dispute without significantly impairing the efficiency, timeliness, and technical quality of the activity.

''(6) SUNSET.—The requirements of paragraphs (3) and (4) shall terminate for the particular relevant activity when the Commission determines that there are alternative sources of industry-wide standards, industry-wide generic requirements, or product certification for a particular class of telecommunications equipment or customer premises equipment available in the United States. Alternative sources shall be deemed to exist when such sources provide commercially viable alternatives that are providing such services to customers. The Commission shall act on any application for such a determination within 90 days after receipt of such application, and shall receive public comment on such application.

''(7) ADMINISTRATION AND ENFORCEMENT AUTHORITY.—For the purposes of administering this subsection and the regulations prescribed thereunder, the Commission shall have the same remedial authority as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier subject to this Act.

''(8) DEFINITIONS.—For purposes of this subsection:

''(A) The term 'affiliate' shall have the same meaning as in section 3 of this Act, except that, for purposes of paragraph (1)(B)—

''(i) an aggregate voting equity interest in Bell Communications Research, Inc., of at least 5 percent of its total voting equity, owned directly or indirectly by more than 1 otherwise unaffiliated Bell operating company, shall constitute an affiliate relationship; and

''(ii) a voting equity interest in Bell Communications Research, Inc., by any otherwise unaffiliated Bell operating company of less than 1 percent of Bell Communications Research's total voting equity shall not be considered to be an equity interest under this paragraph.

''(B) The term 'generic requirement' means a description of acceptable product attributes for use by local exchange carriers in establishing product specifications for the purchase of telecommunications equipment, customer premises equipment, and software integral thereto.

''(C) The term 'industry-wide' means activities funded by or performed on behalf of local exchange carriers for use in providing wireline local exchange service whose combined total of deployed access lines in the United States constitutes at least 30 percent of all access lines deployed by telecommunications carriers in the United States as of the date of enactment.

''(D) The term 'certification' means any technical process whereby a party determines whether a product, for use by more than one local exchange carrier, conforms with the specified requirements pertaining to such product.

''(E) The term 'accredited standards development organization' means an entity composed of industry members which has been accredited by an institution vested with the responsibility for standards accreditation by the industry.

[19. Electronic Publishing]

Page 64, after line 21, insert the following new subsection (and redesignate the succeeding subsections accordingly):

''(d) BELL OPERATING COMPANY REQUIREMENT.—A Bell operating company under common ownership or control with a separated affiliate or electronic publishing joint venture shall provide network access and interconnections for basic telephone service to electronic publishers at just and reasonable rates that are tariffed (so long as rates for such services are subject to regulation) and that are not higher on a per-unit basis than those charged for such services to any other electronic publisher or any separated affiliate engaged in electronic publishing.

Page 69, line 4, strike ''wireline telephone exchange service'' and insert ''any wireline telephone exchange service, or wireline telephone exchange service facility,''.

[20. Alarm Monitoring]

Page 71, beginning on line 17, strike ''1995, except that'' and all that follows through line 21 and insert ''1995.''.

[21. CMRS Joint Marketing]

Page 78, line 17, strike the close quotation marks and following period and after line 17, insert the following new subsection:

''(c) 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, or any judicial decree or proposed judicial decree, a Bell operating company or any other company may, except as provided in sections 242(d) and 246 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.''.

[22. Online Family Empowerment]

Page 78, before line 18, insert the following new section (and redesignate the succeeding sections and conform the table of contents accordingly):

SEC. 104. ONLINE FAMILY EMPOWERMENT.

Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by inserting after section 230 (as added by section 103 of this Act) the following new section:

''SEC. 231. PROTECTION FOR PRIVATE BLOCKING AND SCREENING OF OFFENSIVE MATERIAL; FCC CONTENT AND ECONOMIC REGULATION OF COMPUTER SERVICES PROHIBITED.

''(a) FINDINGS.—The Congress finds the following:

''(1) The rapidly developing array of Internet and other interactive computer services available to individual Americans represent an extraordinary advance in the availability of educational and informational resources to our citizens.

''(2) These services offer users a great degree of control over the information that they receive, as well as the potential for even greater control in the future as technology develops.

''(3) The Internet and other interactive computer services offer a forum for a true diversity of political discourse, unique opportunities for cultural development, and myriad avenues for intellectual activity.

''(4) The Internet and other interactive computer services have flourished, to the benefit of all Americans, with a minimum of government regulation.

''(5) Increasingly Americans are relying on interactive media for a variety of political, educational, cultural, and entertainment services.

''(b) POLICY.—It is the policy of the United States to—

''(1) promote the continued development of the Internet and other interactive computer services and other interactive media;

''(2) preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by State or Federal regulation;

''(3) encourage the development of technologies which maximize user control over the information received by individuals, families, and schools who use the Internet and other interactive computer services;

''(4) remove disincentives for the development and utilization of blocking and filtering technologies that empower parents to restrict their children's access to objectionable or inappropriate online material; and

''(5) ensure vigorous enforcement of criminal laws to deter and punish trafficking in obscenity, stalking, and harassment by means of computer.

''(c) PROTECTION FOR 'GOOD SAMARITAN' BLOCKING AND SCREENING OF OFFENSIVE MATERIAL.—No provider or user of interactive computer services shall be treated as the publisher or speaker of any information provided by an information content provider. No provider or user of interactive computer services shall be held liable on account of—

''(1) any action voluntarily taken in good faith to restrict access to material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected; or

''(2) any action taken to make available to information content providers or others the technical means to restrict access to material described in paragraph (1).

''(d) FCC REGULATION OF THE INTERNET AND OTHER INTERACTIVE COMPUTER SERVICES PROHIBITED.—Nothing in this Act shall be construed to grant any jurisdiction or authority to the Commission with respect to content or other regulation of the Internet or other interactive computer services.

''(e) EFFECT ON OTHER LAWS.—

''(1) NO EFFECT ON CRIMINAL LAW.—Nothing in this section shall be construed to impair the enforcement of section 223 of this Act, chapter 71 (relating to obscenity) or 110 (relating to sexual exploitation of children) of title 18, United States Code, or any other Federal criminal statute.

''(2) NO EFFECT ON INTELLECTUAL PROPERTY LAW.—Nothing in this section shall be construed to limit or expand any law pertaining to intellectual property.

''(3) IN GENERAL.—Nothing in this section shall be construed to prevent any State from enforcing any State law that is consistent with this section.

''(f) DEFINITIONS.—As used in this section:

''(1) INTERNET.—The term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

''(2) INTERACTIVE COMPUTER SERVICE.—The term 'interactive computer service' means any information service that provides computer access to multiple users via modem to a remote computer server, including specifically a service that provides access to the Internet.

''(3) INFORMATION CONTENT PROVIDER.—The term 'information content provider' means any person or entity that is responsible, in whole or in part, for the creation or development of information provided by the Internet or any other interactive computer service, including any person or entity that creates or develops blocking or screening software or other techniques to permit user control over offensive material.''.

[23. Forbearance]

Page 77, line 20, strike ''if the Commission'' and insert ''unless the Commission''.

Page 77, line 23, and page 78, line 4, strike ''is not necessary'' and insert ''is necessary''.

Page 78, line 4, strike ''and'' and insert ''or''.

Page 78, line 6, strike ''is consistent'' and insert ''is inconsistent''.

[24. Pole Attachments]

Page 87, line 1, after ''ensuring that'' insert the following: , when the parties fail to negotiate a mutually agreeable rate,''.

Page 87, line 9, insert ''to'' after ''benefit'', and on line 11, strike ''attachments'' and insert ''attaching entities''.

Page 87, line 16, strike ''and''; on line 17, redesignate subparagraph (C) as subparagraph (D); and after line 16 insert the following new subparagraph:

''(C) recognize that the pole, duct, conduit, or right-of-way has a value that exceeds costs and that value shall be reflected in any rate; and

[25. Required Telecommunications Services]

Page 89, line 21, strike ''A franchising'' and insert ''Except as otherwise permitted by sections 611 and 612, a franchising''.

Page 89, line 23, before ''as a condition'' insert the following: '', other than intragovernmental telecommunications services,''.

[26. Facilities Siting]

Page 90, beginning on line 11, strike paragraph (7) through line 6 on page 93 and insert the following:

''(7) FACILITIES SITING POLICIES.—(A) Within 180 days after enactment of this paragraph, the Commission shall prescribe and make effective a policy to reconcile State and local regulation of the siting of facilities for the provision of commercial mobile services or unlicensed services with the public interest in fostering competition through the rapid, efficient, and nationwide deployment of commercial mobile services or unlicensed services.

''(B) Pursuant to subchapter III of chapter 5, title 5, United States Code, the Commission shall establish a negotiated rulemaking committee to negotiate and develop a proposed policy to comply with the requirements of this paragraph. Such committee shall include representatives from State and local governments, affected industries, and public safety agencies.

''(C) The policy prescribed pursuant to this subparagraph shall take into account—

''(i) the need to enhance the coverage and quality of commercial mobile services and unlicensed services and foster competition in the provision of commercial mobile services and unlicensed services on a timely basis;

''(ii) the legitimate interests of State and local governments in matters of exclusively local concern, and the need to provide State and local government with maximum flexibility to address such local concerns, while ensuring that such interests do not prohibit or have the effect of precluding any commercial mobile service or unlicensed service;

''(iii) the effect of State and local regulation of facilities siting on interstate commerce;

''(iv) the administrative costs to State and local governments of reviewing requests for authorization to locate facilities for the provision of commercial mobile services or unlicensed services; and

''(v) the need to provide due process in making any decision by a State or local government or instrumentality thereof to grant or deny a request for authorization to locate, construct, modify, or operate facilities for the provision of commercial mobile services or unlicensed services.

''(D) The policy prescribed pursuant to this paragraph shall provide that no State or local government or any instrumentality thereof may regulate the placement, construction, modification, or operation of such facilities on the basis of the environmental effects of radio frequency emissions, to the extent that such facilities comply with the Commission's regulations concerning such emissions.

''(E) The proceeding to prescribe such policy pursuant to this paragraph shall supercede any proceeding pending on the date of enactment of this paragraph relating to preemption of State and local regulation of tower siting for commercial mobile services, unlicensed services, and providers thereof. In accordance with subchapter III of chapter 5, title 5, United States Code, the Commission shall periodically establish a negotiated rulemaking committee to review the policy prescribed by the Commission under this paragraph and to recommend revisions to such policy.

''(F) For purposes of this paragraph, the term 'unlicensed service' means the offering of telecommunications using duly authorized devices which do not require individual licenses.''.

Page 94, line 2, strike ''cost-based''.

[27. Telecommunications Development Fund]

Page 101, after line 23, insert the following new section (and redesignate the succeeding section and conform the table of contents accordingly):

SEC. 111. TELECOMMUNICATIONS DEVELOPMENT FUND.

(a) DEPOSIT AND USE OF AUCTION ESCROW ACCOUNTS.—Section 309(j)(8) of the Act (47 U.S.C. 309(j)(8)) is amended by adding at the end the following new subparagraph:

''(C) DEPOSIT AND USE OF AUCTION ESCROW ACCOUNTS.—Any deposits the Commission may require for the qualification of any person to bid in a system of competitive bidding pursuant to this subsection shall be deposited in an interest bearing account at a financial institution designated for purposes of this subsection by the Commission (after consultation with the Secretary of the Treasury). Within 45 days following the conclusion of the competitive bidding—

''(i) the deposits of successful bidders shall be paid to the Treasury;

''(ii) the deposits of unsuccessful bidders shall be returned to such bidders; and

''(iii) the interest accrued to the account shall be transferred to the Telecommunications Development Fund established pursuant to section 10 of this Act.''.

(b) ESTABLISHMENT AND OPERATION OF FUND.—Title I of the Act is amended by adding at the end the following new section:

''SEC. 10. TELECOMMUNICATIONS DEVELOPMENT FUND.

''(a) PURPOSE OF SECTION.—It is the purpose of this section—

''(1) to promote access to capital for small businesses in order to enhance competition in the telecommunications industry;

''(2) to stimulate new technology development, and promote employment and training; and

''(3) to support universal service and promote delivery of telecommunications services to underserved rural and urban areas.

''(b) ESTABLISHMENT OF FUND.—There is hereby established a body corporate to be known as the Telecommunications Development Fund, which shall have succession until dissolved. The Fund shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof.

''(c) BOARD OF DIRECTORS.—

''(1) COMPOSITION OF BOARD; CHAIRMAN.—The Fund shall have a Board of Directors which shall consist of 7 persons appointed by the Chairman of the Commission. Four of such directors shall be representative of the private sector and three of such directors shall be representative of the Commission, the Small Business Administration, and the Department of the Treasury, respectively. The Chairman of the Commission shall appoint one of the representatives of the private sector to serve as chairman of the Fund within 30 days after the date of enactment of this section, in order to facilitate rapid creation and implementation of the Fund. The directors shall include members with experience in a number of the following areas: finance, investment banking, government banking, communications law and administrative practice, and public policy.

''(2) TERMS OF APPOINTED AND ELECTED MEMBERS.—The directors shall be eligible to serve for terms of 5 years, except of the initial members, as designated at the time of their appointment—

''(A) 1 shall be eligible to service for a term of 1 year;

''(B) 1 shall be eligible to service for a term of 2 years;

''(C) 1 shall be eligible to service for a term of 3 years;

''(D) 2 shall be eligible to service for a term of 4 years; and

''(E) 2 shall be eligible to service for a term of 5 years (1 of whom shall be the Chairman).

Directors may continue to serve until their successors have been appointed and have qualified.

''(3) MEETINGS AND FUNCTIONS OF THE BOARD.—The Board of Directors shall meet at the call of its Chairman, but at least quarterly. The Board shall determine the general policies which shall govern the operations of the Fund. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the officers of the Fund and shall discharge all such functions, powers, and duties.

''(d) ACCOUNTS OF THE FUND.—The Fund shall maintain its accounts at a financial institution designated for purposes of this section by the Chairman of the Board (after consultation with the Commission and the Secretary of the Treasury). The accounts of the Fund shall consist of—

''(1) interest transferred pursuant to section 309(j)(8)(C) of this Act;

''(2) such sums as may be appropriated to the Commission for advances to the Fund;

''(3) any contributions or donations to the Fund that are accepted by the Fund; and

''(4) any repayment of, or other payment made with respect to, loans, equity, or other extensions of credit made from the Fund.

''(e) USE OF THE FUND.—All moneys deposited into the accounts of the Fund shall be used solely for—

''(1) the making of loans, investments, or other extensions of credits to eligible small businesses in accordance with subsection (f);

''(2) the provision of financial advise to eligible small businesses;

''(3) expenses for the administration and management of the Fund;

''(4) preparation of research, studies, or financial analyses; and

''(5) other services consistent with the purposes of this section.

''(f) LENDING AND CREDIT OPERATIONS.—Loans or other extensions of credit from the Fund shall be made available to eligible small business on the basis of—

''(1) the analysis of the business plan of the eligible small business;

''(2) the reasonable availability of collateral to secure the loan or credit extension;

''(3) the extent to which the loan or credit extension promotes the purposes of this section; and

''(4) other lending policies as defined by the Board.

''(g) RETURN OF ADVANCES.—Any advances appropriated pursuant to subsection (b)(2) shall be upon such terms and conditions (including conditions relating to the time or times of repayment) as the Board determines will best carry out the purposes of this section, in light of the maturity and solvency of the Fund.

''(h) GENERAL CORPORATE POWERS.—The Fund shall have power—

''(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

''(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

''(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

''(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

''(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

''(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Fund;

''(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

''(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them, and fix the penalty thereof; and

''(9) to enter into contracts, to execute instruments, to incur liabilities, to make loans and equity investment, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

''(i) ACCOUNTING, AUDITING, AND REPORTING.—The accounts of the Fund shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants. A report of each such audit shall be furnished to the Secretary of the Treasury and the Commission. The representatives of the Secretary and the Commission shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Fund and necessary to facilitate the audit.

''(j) REPORT ON AUDITS BY TREASURY.—A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than 6 months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Fund, together with such recommendations with respect thereto as the Secretary may deem advisable.

''(k) DEFINITIONS.—As used in this section:

''(1) ELIGIBLE SMALL BUSINESS.—The term 'eligible small business' means business enterprises engaged in the telecommunications industry that have $50,000,000 or less in annual revenues, on average over the past 3 years prior to submitting the application under this section.

''(2) FUND.—The term 'Fund' means the Telecommunications Development Fund established pursuant to this section.

''(3) TELECOMMUNICATIONS INDUSTRY.—The term 'telecommunications industry' means communications businesses using regulated or unregulated facilities or services and includes the broadcasting, telephony, cable, computer, data transmission, software, programming, advanced messaging, and electronics businesses.''.

[28. Telemedicine Report]

Page 101, after line 23, insert the following new section (and redesignate the succeeding sections and conform the table of contents accordingly):

SEC. 112. REPORT ON THE USE OF ADVANCED TELECOMMUNICATIONS SERVICES FOR MEDICAL PURPOSES.

The Assistant Secretary of Commerce for Communications and Information, in consultation with the Secretary of Health and Human Services and other appropriate departments and agencies, shall submit a report to the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate concerning the activities of the Joint Working Group on Telemedicine, together with any findings reached in the studies and demonstrations on telemedicine funded by the Public Health Service or other Federal agencies. The report shall examine questions related to patient safety, the efficacy and quality of the services provided, and other legal, medical, and economic issues related to the utilization of advanced telecommunications services for medical purposes. The report shall be submitted to the respective Committees annually, by January 31, beginning in 1996.

Page 101, after line 23, insert the following new section (and redesignate the succeeding sections and conform the table of contents accordingly):

SEC. 113. TELECOMMUTING PUBLIC INFORMATION PROGRAM.

(a) TELECOMMUTING RESEARCH PROGRAMS AND PUBLIC INFORMATION DISSEMINATION.—The Assistant Secretary of Commerce for Communications and Information, in consultation with the Secretary of Transportation, the Secretary of Labor, and the Administrator of the Environmental Protection Agency, shall, within three months of the date of enactment of this Act, carry out research to identify successful telecommuting programs in the public and private sectors and provide for the dissemination to the public of information regarding—

(1) the establishment of successful telecommuting programs; and

(2) the benefits and costs of telecommuting.

(b) REPORT.—Within one year of the date of enactment of this Act, the Assistant Secretary of Commerce for Communications and Information shall report to Congress the findings, conclusions, and recommendations regarding telecommuting developed under this section.

[29. Video Platform]

Page 103, line 13, insert ''(other than section 652)'' after ''part V''.

Page 104, strike lines 3 through 5 and insert the following:

''(iii) has not established a video platform in accordance with section 653.''.

Page 109, line 24, strike ''shall'' and insert ''may''.

Page 113, line 1, strike ''15 months'' and insert ''6 months''.

Page 113, line 25, after ''concerning'' insert the following: ''sports exclusivity (47 C.F.R. 76.67),'', and on page 114, line 1, after the close parenthesis insert a comma.

Page 115, beginning on line 20, strike paragraph (2) through page 116, line 4, and on page 116, line 5, redesignate subsection (c) as paragraph (2).

Page 116, beginning on line 9, strike subsection (d) through line 15.

Page 130, line 22, before ''the Commission'' insert ''270 days have elapsed since''.

[30. Cable Complaint Threshold]

Page 127, line 4, strike ''5 percent'' and insert ''3 percent''.

[31. Navigation Devices]

Page 136, beginning on line 24, strike ''Such regulations'' and all that follows through the period on page 137, line 2.

Page 137, line 7, strike ''bundled with or''.

Page 137, after line 8, insert the following new subsection (and redesignate the succeeding subsections accordingly):

''(c) PROTECTION OF SYSTEM SECURITY.—The Commission shall not prescribe regulations pursuant to subsection (b) which would jeopardize the security of a telecommunications system or impede the legal rights of a provider of such service to prevent theft of service.

Page 137, line 10, strike ''may'' and insert ''shall''.

Page 137, line 13, strike ''the introduction of a new'' and insert ''assist the development or introduction of a new or improved''.

Page 137, line 14, insert ''or technology'' after ''service''.

Page 137, after line 14, insert the following new subsection (and redesignate the succeeding subsection accordingly):

''(e) AVOIDANCE OF REDUNDANT REGULATIONS.—

''(1) MARKET COMPETITIVENESS DETERMINATIONS.—Determinations made or regulations prescribed by the Commission with respect to market competitiveness of customer premises equipment prior to the date of enactment of this section shall fulfill the requirements of this section.

''(2) REGULATIONS.—Nothing in this section affects the Commission's regulations governing the interconnection and competitive provision of customer premises equipment used in connection with basic telephone service.

[32. Cable/Broadcast/MMDS Cross Ownership]

Page 154, lines 9 and 10, strike subsection (b) and insert the following:

(b) CONFORMING AMENDMENTS.—Section 613(a) of the Act (47 U.S.C. 533(a)) is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraph (2) as subsection (a);

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(4) by striking ''and'' at the end of paragraph (1) (as so redesignated);

(5) by striking the period at the end of paragraph (2) (as so redesignated) and inserting ''; and''; and

(6) by adding at the end the following new paragraph:

''(3) shall not apply the requirements of this paragraph in any area in which there are two or more unaffiliated wireline providers of video programming services.''

[33. Foreign Ownership]

Page 155, line 8, insert ''held,'' after ''granted,''.

Page 155, beginning on line 12, strike subparagraph (A) through line 19 and insert the following:

''(A) the President determines—

''(i) that the foreign country of which such alien is a citizen, in which such corporation is organized, or in which the foreign government is in control is party to an international agreement which requires the United States to provide national or most-favored-nation treatment in the grant of common carrier licenses; and

''(ii) that not applying subsection (b) would be consistent with national security and effective law enforcement; or

Page 155, beginning on line 23, strike paragraphs (2) through (5) through page 157, line 21, and insert the following:

''(2) COMMISSION CONSIDERATIONS.—In making its determination under paragraph (1), the Commission shall abide by any decision of the President whether application of section (b) is in the public interest due to national security, law enforcement, foreign policy or trade (including direct investment as it relates to international trade policy) concerns, or due to the interpretation of international agreements. In the absence of a decision by the President, the Commission may consider, among other public interest factors, whether effective competitive opportunities are available to United States nationals or corporations in the applicant's home market. Upon receipt of an application that requires a determination under this paragraph, the Commission shall cause notice of the application to be given to the President or any agencies designated by the President to receive such notification. The Commission shall not make a determination under paragraph (1)(B) earlier than 30 days after the end of the pleading cycle or later than 180 days after the end of the pleading cycle.

''(3) FURTHER COMMISSION REVIEW.—The Commission may determine that, due to changed circumstances relating to United States national security or law enforcement, a prior determination under paragraph (1) ought to be reversed or altered. In making this determination, the Commission shall accord great deference to any recommendation of the President with respect to United States national security or law enforcement. If a determination under this paragraph is made then—

''(A) subsection (b) shall apply with respect to such aliens, corporation, and government (or their representatives) on the date that the Commission publishes notice of its determination under this paragraph; and

''(B) any license held, or application filed, which could not be held or granted under subsection (b) shall be reviewed by the Commission under the provisions of paragraphs (1)(B) and (2).

''(4) NOTIFICATION TO CONGRESS.—The President and the Commission shall notify the appropriate committees of the Congress of any determinations made under paragraph (1), (2), or (3).

''(5) MISCELLANEOUS.—Any Presidential decisions made under the provisions of this subsection shall not be subject to judicial review.''.

(c) EFFECTIVE DATES.—The amendments made by this section shall not apply to any proceeding commenced before the date of enactment of this Act.

[34. License Renewal]

Page 161, beginning on line 18, strike ''filed on or after May 31, 1995'' and insert ''pending or filed on or after the date of enactment of this Act''.

[35. Ship Distress and Safety Systems]

Page 162, beginning on line 1, strike section 307 through line 8 and insert the following:

SEC. 307. AUTOMATED SHIP DISTRESS AND SAFETY SYSTEMS.

Notwithstanding any provision of the Communications Act of 1934 or any other provision of law or regulation, a ship documented under the laws of the United States operating in accordance with the Global Maritime Distress and Safety System provisions of the Safety of Life at Sea Convention shall not be required to be equipped with a radio telegraphy station operated by one or more radio officers or operators. This section shall take effect for each vessel upon a determination by the United States Coast Guard that such vessel has the equipment required to implement the Global Maritime Distress and Safety System installed and operating in good working condition.

[36. Certification and Testing of Equipment]

Page 162, after line 22, insert the following new section (and conform the table of contents accordingly):

SEC. 310. DELEGATION OF EQUIPMENT TESTING AND CERTIFICATION TO PRIVATE LABORATORIES.

Section 302 of the Act (47 U.S.C. 302) is amended by adding at the end the following:

''(e) USE OF PRIVATE ORGANIZATIONS FOR TESTING AND CERTIFICATION.—The Commission may—

''(1) authorize the use of private organizations for testing and certifying the compliance of devices or home electronic equipment and systems with regulations promulgated under this section;

''(2) accept as prima facie evidence of such compliance the certification by any such organization; and

''(3) establish such qualifications and standards as it deems appropriate for such private organizations, testing, and certification.''.

[37. Supersession]

Page 163, beginning on line 4, strike subsection (a) through page 164, line 19, and insert the following:

(a) MODIFICATION OF FINAL JUDGMENT.—This Act and the amendments made by title I of this Act shall supersede only the following sections of the Modification of Final Judgment:

(1) Section II(C) of the Modification of Final Judgment, relating to deadline for procedures for equal access compliance.

(2) Section II(D) of the Modification of Final Judgment, relating to line of business restrictions.

(3) Section VIII(A) of the Modification of Final Judgment, relating to manufacturing restrictions.

(4) Section VIII(C) of the Modification of Final Judgment, relating to standard for entry into the interexchange market.

(5) Section VIII(D) of the Modification of Final Judgment, relating to prohibition on entry into electronic publishing.

(6) Section VIII(H) of the Modification of Final Judgment, relating to debt ratios at the time of transfer.

(7) Section VIII(J) of the Modification of Final Judgment, relating to prohibition on implementation of the plan of reorganization before court approval.

Page 164, line 20, insert ''or in the amendments made by this Act'' after ''this Act''.

Page 164, beginning on line 23, strike ''Except as provided in paragraph (2), parts'' and insert ''Parts''.

Page 165, beginning on line 3, strike paragraph (2) through line 6 and insert the following:

''(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 243(e) and 622 of the Communications Act of 1934 and section 402 of this Act.''.

Page 166, after line 5, insert the following new subsection:

(g) ADDITIONAL DEFINITIONS.—As used in this section, the terms ''Modification of Final Judgment'' and ''Bell operating company'' have the same meanings provided such terms in section 3 of the Communications Act of 1934.

[38. 1984 Consent Decree]

Page 165, beginning on line 7, strike subsection (d) through line 15 and insert the following:

(d) APPLICATION TO OTHER ACTION.—This Act shall supersede the final judgment entered December 21, 1984 and 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, and such final judgment shall not be enforced with respect to conduct occurring after the date of the enactment of this Act.

[39. Wireless Successors]

Page 165, beginning on line 17, strike ''subject to the provisions'' and insert ''considered to be an affiliate, a successor, or an assign of a Bell operating company under section III''.

[40. DBS Taxation]

Beginning on page 166, strike line 6 and all that follows through line 20 of page 167, and insert the following:

SEC. 402. PREEMPTION OF LOCAL TAXATION WITH RESPECT TO DBS SERVICE.

(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 with respect to the provision of direct-to-home satellite service. Nothing in this section shall be construed to exempt from collection or remittance any tax or fee on the sale of equipment.

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

(1) DIRECT-TO-HOME SATELLITE SERVICE.—The term ''direct-to-home satellite service'' means the transmission or broadcasting by satellite of programming 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.

[41. Protection of Minors]

Page 167, after line 20, insert the following new section (and conform the table of contents accordingly):

SEC. 403. PROTECTION OF MINORS AND CLARIFICATION OF CURRENT LAWS REGARDING COMMUNICATION OF OBSCENE AND INDECENT MATERIALS THROUGH THE USE OF COMPUTERS.

(a) PROTECTION OF MINORS.—

(1) GENERALLY.—Section 1465 of title 18, United States Code, is amended by adding at the end the following:

''Whoever intentionally communicates by computer, in or affecting interstate or foreign commerce, to any person the communicator believes has not attained the age of 18 years, any material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs, or attempts to do so, shall be fined under this title or imprisoned not more than five years, or both.''.

(2) CONFORMING AMENDMENTS RELATING TO FORFEITURE.—

(A) Section 1467(a)(1) of title 18, United States Code, is amended by inserting ''communicated,'' after ''transported,''.

(B) Section 1467 of title 18, United States Code, is amended in subsection (a)(1), by striking ''obscene''.

(C) Section 1469 of title 18, United States Code, is amended by inserting ''communicated,'' after ''transported,'' each place it appears.

(b) CLARIFICATION OF CURRENT LAWS REGARDING COMMUNICATION OF OBSCENE MATERIALS THROUGH THE USE OF COMPUTERS.—

(1) IMPORTATION OR TRANSPORTATION.—Section 1462 of title 18, United States Code, is amended—

(A) in the first undesignated paragraph, by inserting ''(including by computer) after ''thereof''; and

(B) in the second undesignated paragraph—

(i) by inserting ''or receives,'' after ''takes'';

(ii) by inserting '', or by computer,'' after ''common carrier''; and

(iii) by inserting ''or importation'' after ''carriage''.

(2) TRANSPORTATION FOR PURPOSES OF SALE OR DISTRIBUTION.—The first undesignated paragraph of section 1465 of title 18, United States Code, is amended—

(A) by striking ''transports in'' and inserting ''transports or travels in, or uses a facility or means of,'';

(B) by inserting ''(including a computer in or affecting such commerce)'' after ''foreign commerce'' the first place it appears; and

(C) by striking '', or knowingly travels in'' and all that follows through ''obscene material in interstate or foreign commerce,'' and inserting ''of''.

[42. Cable Access]

Page 170, line 21, after the period insert the following: ''For purposes of section 242, such term shall not include the provision of video programming directly to subscribers.''.

The CHAIRMAN. Pursuant to the rule, the gentleman from Virginia [Mr. BLILEY] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Does the gentleman from Texas [Mr. BRYANT] seek the time in opposition?

Mr. BRYANT of Texas. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Texas will be recognized for 15 minutes in opposition.

The Chair recognizes the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Chairman, I yield 7 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. BLILEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of the manager's amendment to H.R. 1555. I am joined in support for that amendment by the distinguished ranking Democrat member of the Commerce Committee, Mr. DINGELL, and the distinguished chairman of the Judiciary Committee, Mr. HYDE.

The manager's amendment makes numerous changes to H.R. 1555, as the bill was reported from the Commerce Committee. Many of these changes reflect the compromise struck between the Commerce and Judiciary Committees on issues over which both committees have jurisdiction. As you know, the Judiciary Committee reported H.R. 1528, which also addresses the AT&T consent decree. The two committees have worked hard to reconcile the different approaches, and I again want to commend Chairman HYDE for his diligence and effort to come to this agreement.

Some of the important issues addressed in that agreement include: The role of the Justice Department relevant to decision on Bell Co. entry into long distance and manufacturing; Bell Co. provision of electronic publishing and alarm monitoring; supersession of the modification of final judgment [MFJ] of the AT&T consent decree; treatment of Bell Co. successors; the GTE consent decree; State and local taxation of direct broadcast satellite systems; and civil and criminal on-line pornography. I believe that we have produced an amendment that satisfies both committees' concerns on these important issues, and I commend these provisions to the Members and urge their support for them.

Additionally, we have addressed the issue of foreign ownership or equity interest in domestic telecommunications companies. This new language reflects the hard work of Messrs. DINGELL and OXLEY, who sponsored the proposal in committee, the administration and myself. I must observe, Mr. Chairman, that the foreign ownership issue is the only matter on which the administration offered specific language to the Commerce Committee, and I believe the administration's concerns have been largely resolved. Conversely, the concerns stated in the President's recent statement on H.R. 1555 have never been accompanied by specific legislative proposals. I think the committee's willingness to work to accommodate specific concerns and proposals speaks for itself.

The amendment also includes several changes to the provision governing Bell Co. entry into long distance and manufacturing. These changes enjoy the strong support of the ranking Democrat, Mr. DINGELL, the chairman of the Telecommunications Subcommittee, Mr. FIELDS, and the chairman of the Committee on the Judiciary, Mr. HYDE.

I will not claim to the Members of the House that these provisions, or this issue generally, is without controversy. This issue has been clouded with controversy virtually since the AT&T divestiture took effect on January 1, 1984. Since that time, the issue of loosening the restrictions on AT&T's divested progeny, the so-called Baby Bells, has been before Congress during each term. And each time, Congress has failed to act. Consequently, Judge Harold Greene has been left de facto, to fashion telecommunications policy. I personally believe he has done a good job, but it is time for Congress to retake the field.

I believe the changes incorporated in the manager's amendment reflect the committee's effort to craft a very careful balance. It has not been easy to draft language that is satisfactory to both sides in this debate. This difficult task will continue in the conference. This is our best effort, and it is broadly supported by Members both on and off the committee. I urge my colleagues to support this approach.

Finally, the amendment includes numerous other technical and substantive revisions to H.R. 1555. Most notably, the revisions include clarifications on municipalities' ability to manage rights-of-way, limitations on the rural telephone exemption, manufacturing by Bellcore, facilities siting for wireless services, a telecommunications development fund for small entrepreneurial telecommunications businesses, changes to the video platform to make it permissive, and provision for the ultimate repeal of the cable-MMDS cross-ownership restriction.

More importantly, the manager's amendment complements the vision and goals of the underlining bill. The key to H.R. 1555 is the creation of an incentive for the current monopolies to open their markets to competition. The whole bill is based on the theory that once competition is introduced, the dynamic possibilities established by this bill can become reality. Ultimately, this whole process will be for the common good of the American consumer.

I urge strong support for the manager's amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Texas [Mr. BRYANT] is recognized for 15 minutes.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself such time as I may consume.

(Mr. BRYANT of Texas asked and was given permission to revise and extend his remarks.)

Mr. BRYANT of Texas. Mr. Chairman, there are so many things to be said this morning in the amount of time available that cannot all be said, but let me first say this. The process by which we have arrived at this early hour, after having quit so late last night, is not one that, in my view, reflects well upon this institution.

I am disappointed both in the leadership of the Republican Party and the Democrats for allowing this to take place. The fact of the matter is, the full committee, after months of work, months and months of work, reported a bill out that was designed to ensure that as we begin to see competition in areas that had never before seen competition, we would see the strongest gorilla on the block, the Bell competitors, enter into competition on the basis of a checklist that would make sure that they did not enter into it in such a way that they squeezed out the tremendously beneficial value to the consumer of the long distance competitive industry that has developed over the last 10 or 11 years since the AT&T monopoly broke up in the beginning.

Mr. Chairman, after the committee met and did our work, suddenly out of nowhere comes this amendment that has been created out of public view, been created in the back rooms, been created without organized public input, and led by the chairman of the committee and with the complicity of the chairman of the subcommittee and leaders on our side as well.

Mr. Chairman, it is not the proper way to go about this. What has it done? It has, in effect, taken away the most critical parts of this bill with regard to ensuring that competition will succeed for the benefit of the American consumer rather than be stamped out.

For example, the committee bill, which we worked on in committee and which was voted out by a large margin,

conditions Bell entry into long distance upon two things: First implementing a competitive checklist, a list of items that have to occur if local telephone markets are to be open to competition, number one; and second, upon a showing that they faced effective facilities-based local competition.

The managers' amendment, again, put together in a room some place without the input of the public, without of the input of most of the members of the committee, takes that away. In fact, a key part of the actual competition test that requires that a new entrant's local service be ''comparable in price, features and scope'' would be dropped.

Mr. Chairman, the impact is that the Bell companies could enter long distance without facing real local competition. This is complicated, arcane, it is tedious, but it is the work of this committee and, unfortunately, the work of this committee has been thrown out as we saw the work, in my view, of lobbyists in the back room be substituted for the work of this House in the light of day.

Mr. Chairman, what else have they changed in this amendment? They have changed 42 things. We are going to hear people say, ''We passed the bill out of the committee and then we discovered all of these problems that we had created and we had to get them fixed.''

The fact of the matter is, they apparently had to fix 42 different things, because there are 42 different changes in this managers' amendment. It is a shameful process. It is an embarrassment to the House. I think it is, frankly, an embarrassment to the Members who have brought it before us, because I do not think they believe in their hearts that this has been the proper process.

Mr. Chairman, I mentioned one big major change; let me mention another one. Before, under the committee-approved bill, the Bell companies would have had to apply for entry into long distance 18 months after we enacted the bill. Why? To give the FCC and the States enough time to make sure that there was full implementation of the competitive checklist.

What does the managers' amendment do? It changes that drastically by saying they can apply for entry after only 6 months. I do not have to tell Members that serve in this House, and that have served in State and local government and have served in Federal Government for a long time that 6 months is not enough time to let these agencies get in a position to make sure that they do not drive the competitors out of business, but that is what we have in the managers' amendment.

Resale: Under the committee's bill, the Bell companies are going to be required to make their local services available for resale by new local competitors in a way that makes it economically feasible for the reseller.

What does the managers' amendment do? It changes that entirely. The economically feasible condition would be eliminated. The fact of the matter is that we would not be able to guarantee that the Bell companies would have adequate competition in the local market before they entered the long distance market.

Mr. Chairman, I think what we see here is a big lobbying war. They lost it when it was fought in public, but they won it when it was fought in the back rooms, and so we have an amendment here today that tries to change the whole course of the process. I think it is unprecedented. Maybe there is a precedent. If there was a precedent for it, it should be condemned.

Mr. Chairman, the managers' amendment is a bad deal for the American people, and I urge every Member to vote against it.

Mr. Chairman, I reserve the balance of my time.

Mr. DINGELL. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I want to first express my gratitude and respect to my friend and colleague, the gentleman from Virginia [Mr. BLILEY], for the fine fashion in which he has worked with us, and also to my good friend, the gentleman from Texas [Mr. FIELDS], the chairman of the subcommittee. The work of the gentlemen on this matter, as well as the work of the other members of the Committee on Commerce, has helped bring us successfully to a point where we can consider this major piece of telecommunications legislation.

Mr. Chairman, the first item of business, of course, is the managers' amendment. For the benefit of some of my colleagues around here who should remember, but do not, I am going to point out that this is a traditional practice of this body. That is, to assemble an amendment in agreement between the two committees which have worked on the legislation, which can then be placed on the floor and voted on.

Mr. Chairman, this is done in an entirely open and proper fashion. It is an amendment which, on both substance and procedure and practice, is correct, proper and good and consistent with the traditions of the House.

The House can vote openly and discuss openly the matters associated with the managers' amendment and we can then proceed to carry out the will of the House, which is the way these matters should be done.

Mr. Chairman, there were a number of defects and differences in both bills. Amongst those provisions was one which required local telephone companies to subsidize the long distance competitors by setting rates for resale that were economically reasonable to the reseller.

Mr. Chairman, that would have caused local rates to skyrocket for the household user. It would have required service which cost $25 to be sold to AT&T for $6; something which would have caused the necessity of subsidizing, then, AT&T at the expense of small business and the local phone user, an outrageous situation.

The gentleman from Virginia [Mr. BLILEY] and the gentleman from Texas [Mr. FIELDS] worked with me to correct this serious abuse and this failure in the legislation.

The committee bill also contained a provision that would preclude the Bell companies from offering network-based information service. That would have prevented these companies from offering a number of services in the market, and denied the customer and the consumer an opportunity to have the best kind of competitive service from all participants.

The gentleman from Virginia [Mr. BLILEY] and the gentleman from Texas [Mr. FIELDS] and I worked out a compromise which permits these services to continue to be offered. That is included in the managers' amendment.

The long distance industry has, in a very curious fashion, charged that these changes, and others that are included in the amendment, unfairly benefit the Bell companies. That is absolute and patent nonsense. All that this amendment does is to remove or modify provisions that unfairly protect the long distance industry from fair competition by the Bells, a matter which I will discuss at a later time.

Frankly, Mr. Chairman, I would note that in many ways it does not go far enough. There is no justification, whatsoever, for the out-of-region restriction. The compromise leaves that in place until each Bell company has received permission to originate long distance service in each State in its region. That is not an unfair arrangement, but it is the least favorable from the standpoint of the Baby Bells that is in any way defensible.

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Mr. Chairman, I also want to remind my colleagues of the scandalous and outrageous behavior of the long-distance lobby. I want to remind them that each Member has been deluged with mail and telegrams, many of which were never sent by the person who appears as signatory. This is a matter which I will also pursue in another forum.

Mr. Chairman, this was a deliberate attempt to lie to and to deceive the Congress. It was a deliberate attempt by the long-distance operators to steal the government of the country from the people and from the consumers by putting in place a fraudulent system to make the Congress believe that the people had one set of feelings when, in fact, they did not and had quite a different set of feelings.

I would hope that those who will be speaking on behalf of the long-distance industry today will seek to defend that outrageous behavior, instead of attacking a proper piece of legislation.

Mr. BLILEY. Mr. Chairman, I reserve the balance of my time.

Mr. BRYANT of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. WATTS].

Mr. WATTS of Oklahoma. Mr. Chairman, I rise in opposition to the manager's amendment.

Yesterday, my office heard from public utility commissioners all over the country, Alabama, Arizona, California, Kansas, New Hampshire, Nebraska, Nevada, my home State of Oklahoma, Oregon, Utah, and Wisconsin, all public utility commissioners who called and vigorously agreed with my position. We also heard from the National Association of State Utility Commissioners, who support my position.

Let me read from one of the letters from a commissioner in New Hampshire: ''As a State telecommunications regulator, I believe the so-called manager's amendment to H.R. 1555 will not adequately protect the interests of the consumer in insuring the existence of meaningful telecommunications competition.''

Mr. Chairman, this was just one of the letters. I have many more. If my colleagues would like to take a look at them, they are more than welcome to do that.

Before we vote on this manager's amendment, I encourage the Members of this House to call their State public utility or public service commissioners and see what they think about the manager's amendment. I have talked to Members of the House over the last 48 hours and said, ''We do not understand this legislation. If you don't understand this legislation, call your public service or public utility commissioner.''

Mr. Chairman, we are placing the public utility commissioners in an untenable situation to not put in some sort of tangible measurement for competition. We must make sure that there is fair and open competition for our constituents, the ratepayers, who will bear the burden of this amendment.

I am not concerned about the RBOC's or the long-distance carriers. My special interest in this situation are the ratepayers. I served for 4 years as a public utility commissioner. I dealt with these long-distance issues. I dealt with these situations for 4 years.

Mr. Chairman, this is not fair and open competition. I oppose the manager's amendment. I strongly urge a ''no'' vote to the manager's amendment, and I ask for fair and open competition.

Mr. Chairman, I submit for the RECORD the following letters.

STATE OF NEW HAMPSHIRE,
PUBLIC UTILITIES COMMISSION,
Concord, NH, August 3, 1995.

Congressman J.C. WATTS,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN WATTS: This is written to support the original version of H.R. 1555. As a state telecommunications regulator, I believe the so-called Manager's Amendment to H.R. 1555 will not adequately protect the interests of the consumer in insuring the existence of meaningful telecommunications competition.

Sincerely,

SUSAN S. GEIGER,
Commissioner.

NEBRASKA PUBLIC SERVICE COMMISSION,
Lincoln, NE, August 3, 1995.

Hon. J.C. WATTS, Jr.,
U.S. House of Representatives, Longworth Office Building, Washington, DC.

DEAR CONGRESSMAN WATTS: As a member of the Nebraska Public Service Commission, I support federal legislation which preserves the states' role in shaping this country's future competitive communications industry.

In Nebraska, we are particularly proud of the quality of telecommunications service our customers enjoy. Any federal legislation should continue to provide a state role in regulating quality standards and establishing criteria for BOC entry in the interLATA market.

The needs of Nebraska's customers are varied; therefore, we must continue to play an active role during the transition to fully competitive communications markets.

Sincerely,

Lowell C. Johnson.

STATE OF NEVADA, ATTORNEY GENERAL'S OFFICE OF ADVOCATE FOR CUSTOMERS OF PUBLIC UTILITIES,
Carson City, NV, August 3, 1995.

Ms. CATHY BESSER, c/o Rep Vucanovich's Office.

DEAR MS. BESSER, We strongly urge Representative Vucanovich to OPPOSE H.R. 1555, Communications Act of 1995, in its present form. Several Anticonsumer and anticompetitive sections of the bill will hurt Nevada's consumers by thwarting local competition and drastically redoing regulatory oversight. Please do not allow Rep. Vucanovich to support HR 1555 in its present form; It will hurt Nevada in the pocketbook.

Best Regards

MIKE G.

ARIZONA CORPORATION COMMISSION,
Pheonix, AZ, August 3, 1995.

Hon. JOHN SHADEGG,
House of Representatives, Cannon House Office Bldg., Washington, DC.

DEAR REPRESENTATIVE SHADEGG: I am writing to urge you to vote against the Manager's amendment to H.R. 1555. The Communications Act of 1995.

As you may be aware, the Arizona Corporation Commission, on June 21, 1995, approved far-reaching rules to open local telecommunications markets in Arizona to competitors. Our June 21st action came after nearly two years of detailed analysis of the issues and countless hours of meetings with all stakeholder groups in arriving at a thoughtful, detailed process for opening local markets to competition. Arizona's rules, moreover, make our state one of the 15 most progressive states in the nation in telecommunications regulatory reform. Our efforts would be totally negated with the adoption of the Manager's amendment.

The Manager's amendment would preempt Arizona and other states from proceeding with plans to open telecommunication markets to competition, and thereby, put the brakes on the benefits that customers would receive from competition. Please vote against the Manager's amendment, and allow competition to proceed in Arizona.

Very truly yours,

MARCIA G. WEEKS,
Commissioner.

PUBLIC SERVICE COMMISSION OF WISCONSIN,
Madison, WI, August 3, 1995.

Hon. J.C. WATTS,
House of Representatives, Longworth House Office Building, Washington, DC.

Re: H.R. 1555

DEAR REPRESENTATIVE WATTS: I agree that the original bill did a much better job of balancing the power between competitors, and because of that, it did a better job of promoting competition. My concern about the original bill is that it gave too much power to the Federal Communications Commission (FCC) and preempted the states.

H.R. 1555 as originally drafted takes away current state authority and gives back only very specific and limited authority, while expanding the authority of the FCC. The bill allows the FCC to preempt the states on many key issues. This provides an incentive for the current monopoly provider to challenge every state decision. Rather than lessening regulation, this will add an additional layer. The regulatory lag created by the dual level of regulation will also advantage the dominant provider to the detriment of competitors, customers and the country. If all authority is given to the FCC, state progress, and thus competition, will come to a halt. Although the managers amendment does not give us everything we had asked for, it certainly does a better job of balancing federal and state jurisdiction.

To the extent that your efforts would give the states a stronger chance to gain some ground on the jurisdictional issues in conference committee, I would tend to support your efforts.

Sincerely,

CHERLY L. PARRINO,
Chairman.

STATE OF ALABAMA,
ALABAMA PUBLIC SERVICE COMMISSION,
Montgomery, AL, August 3, 1995.

Hon. SPENCER BACHUS,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE BACHUS: We would like to register our agreement with Congressman Watts over the status of H.R. 1555. The bill that came out of committee was a carefully drafted document that did have some level of support from industry and regulatory representatives.

The National Association of Regulatory Utility Commissioners (NARUC) Telecommunications Committee, of which Commissioner Martin is a member, participated in the crafting of this bill and was supportive of it as it passed the House Committee. In addition, Commissioner Sullivan, a member of the NARUC Executive Committee, does not favor the provisions in the Manager's Amendment. We feel that the Manager's Amendment will make the job of ensuring fair competition very difficult. We urge you to vote against the Manager's Amendment and go back to the original bill the Committee members drafted and passed.

Sincerely,

JIM SULLIVAN,
President.
CHARLES B. MARTIN,
Commissioner.

Mr. BRYANT of Texas. Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. Mr. Chairman, I rise in strong opposition to the Bliley-Fields amendment.

This is a body hell bent against tax increases, but let's be clear about what this bill is. It's a tax increase. People will see increases in their telephone bills, their cable bills, their internet bills, and bills for any service that connects them to any communications wire.

Each and every day, we hear about and see rapid developments in communications that keep our country on the cutting edge. Now is not the time to

pass a law that could harness this energy. We should be unleashing, and reaping the benefits of this exciting new technology.

The Bliley-Fields amendment is a harness that maintains old monopolies, and stifles real competition.

H.R. 1555 is also a bad deal for consumers. It is estimated that since we passed the Cable Act in the 102d Congress, consumers have saved more than $3 billion. This bill would gut those provisions and deregulate an industry where no real competition exists.

I urge you to think about your constituents as they answer their phones, sign on to their computers, turn on their televisions, and open their cable bills. If we rush pass H.R. 1555, our constituents may start thinking negatively about us when they do these things. Vote no on this tax increase, vote ''no'' on Bliley-Fields.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. HYDE], the distinguished chairman of the Committee on the Judiciary.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Chairman, I commented more extensively on the manager's amendment in the debate in chief on the general debate, so I will not repeat that now, except to say I do support the manager's amendment. I think it has tied up a lot of loose ends and makes the entire telecommunications field more competitive.

The purpose of the entire legislation was really to enhance competition, because that certainly helps the consumer, facilitates development of all these various industries, and benefits the country and the economy at large. Given the complexity of this legislation, this manager's amendment goes a long way toward resolving that.

The Committee on the Judiciary met with the staff of the gentleman from Virginia [Mr. BLILEY] and resolved many controversies, so I am pleased to support the manager's amendment.

Mr. BRYANT of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. BUNN].

Mr. BUNN of Oregon. Mr. Chairman, this bill has a lot of good things in it, but one it does not have is increased competition.

In a real effort to provide more competition, I offered an amendment that simply said that a Bell Co. has to have at least the availability of 10 percent of the customers going to a competitor, not that 10 percent have to be signed up for competition, but that 10 percent have to be able to sign up for competition. That was ruled out of order to protect the manager's amendment.

Mr. Chairman, the manager's amendment goes a long way to shut down realistic competition. If the manager's amendment passes, consumers lose. We need to reject the manager's amendment, go back to the language that came out of the committee or ensure that we put in language that would allow real competition, ensuring that at least 10 percent of the customers have the ability to ask for service from a competitor.

Mr. Chairman, I do not think 10 percent is unreasonable. However, I think the manager's amendment is very unreasonable, and I would urge a ''no'' vote.

Mr. BRYANT of Texas. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. FORBES].

Mr. FORBES. Mr. Chairman, I thank my colleague from Texas [Mr. BRYANT], and rise in reluctant opposition to the manager's amendment.

The process that brought this manager's amendment to the House floor today has been sorely compromised and will result in a bill that, I believe, will raise more questions than answers. My key concern with process rests in the manager's amendment that is before us.

As we all know, the Commerce Committee reported out H.R. 1555 by a consensus-demonstrating vote of 38 to 5. Before that, the Subcommittee on Telecommunications and Finance reported the legislation after lengthy debate, and previously in this Congress, after many hearings, and in Congresses before, other numerous hearings related to the telecommunications reform measures before us today.

While no one was completely pleased with the bill that was reported out originally by the committee, the committee did produce a balanced bill. That is what happens when you hold public hearings and public markups. It is the way the process is supposed to work in this House.

But what we have before us today, Mr. Chairman, is a manager's amendment that is 60 pages long, with 42 different changes from what the committee reported out.

Mr. Chairman, we are being asked to vote on this amendment and adopt it practically sight unseen. If the changes made in this 60-page manager's amendment are so important, why was not this amendment returned to the Commerce Committee and to the Committee on the Judiciary for their approval before going to the floor?

Mr. Chairman, I vote a ''no'' vote on the manager's amendment.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. BOUCHER] for an enlightened discourse on this matter, and I have been looking forward very much to hearing from the friends of the long-distance operators and I am somewhat distressed that I am not going to do so at this time.

(Mr. BOUCHER asked and was given permission to revise and extend his remarks.)

Mr. BOUCHER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the manager's amendment and in support of H.R. 1555 and would like to take this time to engage in a colloquy with the gentleman from Illinois [Mr. HASTERT] with respect to legislation we have crafted concerning the application of the interconnection requirements with respect to small telephone companies, and at this time, I would yield to the gentleman from Illinois [Mr. HASTERT] for that colloquy.

Mr. HASTERT. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, as you know, the gentleman from Virginia [Mr. BOUCHER] and I have been working on language to refine an amendment that the gentleman offered at full committee. I would like to ask the gentleman to take a moment to outline the purpose of his original amendment.

Mr. BOUCHER. Mr. Chairman, reclaiming my time, the amendment that I offered at full committee and which was approved on a voice vote was meant to assure that the more than 1,000 smaller rural telephone companies in our Nation would not have to comply immediately with the competitive checklist contained in section 242 of H.R. 1555.

Rural telephone companies were exempted because the interconnection requirements of the checklist would impose stringent technical and economic burdens on rural companies, whose markets are in the near term unlikely to attract competitors.

It was never our intention, however, to shield these companies from competition, and it is in that context that the language the gentleman and I have agreed to is pertinent, and I would yield back to him to explain the amendment we have crafted.

Mr. HASTERT. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, a refinement of the Boucher amendment assures that rural telephone companies defined in H.R. 1555 will be exempted from complying with the competitive checklist until a competitor makes a bona fide request. Once a bona fide request is made, a State is given 120 days to determine whether to terminate the exemption.

States must terminate the exemption if the expanded interconnection request is technically feasible, not unduly economically burdensome, is consistent with certain principles for the preservation of universal service.

Mr. BLILEY. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois [Mr. HASTERT].

(Mr. HASTERT asked and was given permission to revise and extend his remarks.)

Mr. HASTERT. Mr. Chairman, of critical importance here is an understanding shared by the gentleman from Virginia [Mr. BOUCHER] and me that the economic burdens of complying with the competitive checklist fall on the party requesting the interconnection. However, to the extent the rural telephone company economically benefits from the interconnection, the States should offset the costs imposed by the party requesting interconnection.

Furthermore, we want to make clear that while H.R. 1555 provides that the

user of the interconnection pay the cost of interconnection, the user in this context is the corporate entity requesting interconnection with a local exchange company.

It would be a perversion of the intent if the cost of complying with the competitive checklist would require the incumbent rural telephone company to increase its basic local telephone rates to fund the competitor's service offering.

Mr. BRYANT of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the question this morning is, what is the hurry? After 61 years, we spent time in committee and in subcommittee and we developed H.R. 1555. I did not support the bill but at least I was part of the process.

Now it is whether you believe the Washington Post and the Wall Street Journal who say that people like Rupert Murdoch and Ameritech and others have gotten special favors from this manager's mark. In other words, after the committee had worked its will, large corporations continued to lobby the Republican leadership to change the bill and they agreed to do it.

Mr. Chairman, this amendment is a top down, your vote does not count. The only important input is from the Speaker of the House amendment. This is not the kind of representative government that our constituents deserve. Nearly every provision that is in this manager's mark should be voted on separately. It is not going to happen. We will not have that opportunity. This is a bad process. It is bad governance, and I urge my colleagues to oppose the manager's amendment.

Mr. BRYANT of Texas. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. FRELINGHUYSEN].

Mr. FRELINGHUYSEN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to the manager's amendment.

Mr. Chairman, we all favor increased competition in all markets. And that is what I thought this bill stood for. But the fact is that local carriers are in a unique position because all long-distance calls must pass through their facilities.

This control lets the local carriers discriminate against their competitors in the delivery of long-distance service. If not a single other entity can offer this service with their own equipment, the locals will continue to stifle competition.

That is precisely why we need the facilities based competition provided in the original bill. The 66 page manager's amendment—takes this entry test out of the bill, and that is simply unfair.

Mr. Chairman, if there is only one drawbridge over a river, the person who lifts that bridge is a monopoly. Likewise, if all long-distance calls have to go through one company's switches, we still have a monopoly. Oppose this amendment and support the original bill.

Mr. BRYANT of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we have two choices in this bill. The whole notion of an open architecture cyberspace-based competition is undermined by what has happened between the full committee and the manager's amendment.

What we had determined at the full committee was that if, in fact, the telephone company used common carrier facilities in order to build their cable network, that it would have to have an open architecture, so that any provider of information, any 18-year-old kid, any producer, would be able to use this common carrier network in order to get their ideas into every home.

Mr. Chairman, that was in contrast to the old cable model where if the telephone company built another cable system, but under design of the cable companies of the past, then they would be regulated like a cable company, get a franchise.

This bill takes that open architecture concept, throws it out the window. We must go back to that if we are going to enjoy the full benefits of this information revolution.

What is most troubling to me about the manager's amendment is that it takes the open access, common carrier model for telephone company delivery of video and makes that optional.

The information superhighway had always been heralded as an opportunity for consumers to get 500 channels of television, and for independent, unaffiliated producers of information to use the network and reach the public.

The bill had set up an appropriate balance I believe. It told the phone companies that when they got into the cable business they had a choice. They could build separate facilities, and overbuild cable systems to provide video services. If they did that they would be regulated as a cable company is regulated—under title 6 of the Communications Act—and they would have to go out and obtain a franchise just as cable companies do.

The second option—if they wanted to use their phone network facilities and construct a system using a common carrier, equal access network to send video services to consumers—the legislation provided a video platform model. This video platform model ensured that unaffiliated, independent programmers, software engineers, the kid in the garage—could obtain access to the phone company's network and provide video, interactive, multimedia services to consumers too.

After all, every consumer ratepayer had helped pay for the phone network, shouldn't everyone have a right to use the information superhighway.

These openness rules were provisions establishing rules also under title 6 of the Communications Act. The bill specifically said that there would be no burdensome title 2 traditional phone company, utility type regulation. The bill already dealt with that and did it well.

The managers amendment, on the other hand, would allow a phone company to build a closed, proprietary cable system on a common carrier phone network architecture. No other independent film producer, unaffiliated programmer, video game maker can claim a right to carriage. Only the phone company.

This isn't the open road people have in mind when they think of cyberspace. In fact, the very notion of cyberspace in antithetical to closed, proprietary systems where only one provider of information is allowed to rule the road.

One of the principles of common carriage for 60 years has been that any service you make available to one entity, you have to make available to all comers. This managers amendment lets the phone company—on a common carrier facility—make access available to itself and no one else.

I think that is a giant step backward and for that reason I oppose the managers amendment. It is bad for small, independent, unaffiliated providers of information, for entrepreneurs and inventors.

I believe that if phone companies are going to use the phone network—a communications network that all ratepayers have paid for—that access for video services should not be the sole domain of the phone company, but rather an open superhighway for other creative geniuses as well.

Mr. DINGELL. Mr. Chairman, I yield myself 1 minute.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. I have heard a lot of irresponsible talk about how secret agreements were made between the two committees. Well, nothing of the kind occurred. There was open discussion between the chairman of the Committee on the Judiciary and the chairman of the Committee on Commerce, and from that came the managers' amendment, and there is no secrecy involved here.

As a matter of fact, for the benefit of those who do not know, the manager's amendments return this legislation to something very close to what passed this House last year 423 to 5. That is what the members' amendment does. The process is open. Members are having an opportunity to discuss this on the House Floor under a rule, and to say otherwise is either to deceive yourself or to deceive the Members of this body.

That is what the facts are, and I would urge my colleagues to not listen to this kind of nonsense, but rather, to respect the institution, the Members who have brought forward this amendment, to understand that it is a fair amendment, it is in the public interest, and it is balanced, and it is not founded upon a lot of sleazy lobbying of the kind we have seen and the mail we have been getting from the long-distance industry.

□ 0840

Mr. BRYANT of Texas. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Texas is recognized for 1 minute.

(Mr. BRYANT of Texas asked and was given permission to revise and extend his remarks.)

Mr. BRYANT of Texas. Mr. Chairman, I say to my colleagues, had I been a party to this, I would stand up on the floor, and I would wave my arms and speak loudly as well. The fact of the matter is you voted for the bill that came out of committee, and the gentleman from Virginia [Mr. BLILEY] voted for the bill that came out of committee. I voted against it. But now the two of you come to the floor with a totally different bill. Mr. Chairman, this is not the bill that passed the House by 400 and something to nothing last year. This is a totally different approach. The fact of the matter is it was written in the darkness. The committee did not have any input into this. The Members did not have any input into this. My colleagues wrote it behind closed doors. The Bell companies came and said, ''Hey, we decided we don't like what happened in the committee. Rewrite the bill and help us out.''

Mr. Chairman, that is what my colleagues have done here. The fact of the matter is this process is an outrage, and Members stand on the floor, and wave their arms and say somebody is trying to deceive the American people, they should have written the bill in public, not behind closed doors. It is an outrage.

I would urge Members, if for no other reason, and I will not yield to the gentleman.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BRYANT] has expired.

Mr. BLILEY. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. BURR].

(Mr. BURR asked and was given permission to revise and extend his remarks.)

Mr. BURR. Mr. Chairman, I rise in support of the manager's amendment.

During the Commerce Committee's consideration of H.R. 1555, I offered an amendment designed to permit Bell operating telephone companies to resell the cellular services of their cellular affiliates. Currently, Bell operating companies, alone among local telephone companies, are prevented from providing or even reselling cellular services with their local services. Larger companies, like GTE—the largest local exchange carrier in the United States—are not restricted from marketing cellular services with their long distance or local services.

Several of my colleagues were concerned that they had not had an ample opportunity to consider the amendment. With the understanding that it could be included in the managers' amendment if these members, upon further study, were not troubled by the substance of the amendment, I withdrew it. Having satisfied the members' concerns with new language, I want to thank the managers of this bill for agreeing to include that language in their amendment.

As with my original amendment, the primary goal of the new language is to provide the Bell operating telephone companies with sufficient relief from existing FCC rules to permit them to offer one-stop shopping of local exchange services and cellular services. Currently, FCC rules not only prohibit those operating companies from physically providing cellular services—that is, from owning the towers, transmitters, and switches that make up cellular services—but also from marketing cellular services—that is, selling cellular services.

This amendment does not lift the FCC's prohibition against the Bell operating telephone companies providing the cellular services; it merely permits them to jointly market or resell their cellular affiliate's cellular services along with their local exchange services. Under existing FCC polices, cellular providers must permit resale of their cellular services. Thus, virtually everyone but the Bell operating telephone companies can resell the cellular services of their cellular affiliates.

Thus, together with other provisions in the bill, this amendment will help to put the Bell operating telephone companies on par with their competitors by allowing them to resell cellular services—including the provision of interLATA cellular services—in conjunctions with local exchange services and other wireless services—that is, PCS services—that they are already permitted to provide.

AT&T has voluntarily entered into a proposed consent decree with the Department of Justice. This would obviate certain potential violations of section 7 of the Clayton Act arising out of its acquisition of McCaw Cellular. To overcome the Department's opposition to the acquisition, AT&T agreed to certain restrictions regarding its provisions and marketing of McCaw's cellular services.

In order to ensure that all carriers can offer similar service packages, language has been included in the amendment to supersede language in that pending decree. As a result, AT&T and others will be able to sell cellular services on the same terms as the Bell companies. Specifically, all carriers would be able to sell cellular services, including interLATA cellular services, along with local landline exchange offerings.

However, the Bell operating companies will not be able to offer landline interLATA services in conjunction with such local telephone—even in conjunction with a cellular/cellular interLATA service offering—until they have met the conditions for interLATA relief.

Accordingly, the amendment makes it clear that it does not alter the effect of subsection 242(d) on AT&T or any other company. As a result, AT&T and other competitors subject to that provision will not be able to offer or market landline interLATA services with a local landline exchange offering—even in conjunction with a cellular/cellular interLATA package—until the Bell companies are authorized to do so.

Mr. BILILEY. Mr. Chairman, to close debate, I yield the balance of my time to the gentleman from Texas [Mr. FIELDS], the chairman of the subcommittee.

The CHAIRMAN. The gentleman from Texas [Mr. FIELDS] is recognized for 2 minutes.

(Mr. FIELDS of Texas asked and was given permission to revise and extend his remarks.)

Mr. FIELDS of Texas. Mr. Chairman, let me just say very briefly, and then I am going to yield to the gentleman from Michigan, this is a fair and balanced approach that we are now bringing to this floor for a vote. This is a delicate process, it is a complex process. On a piece of legislation like this we expect a manager's amendment. No one has talked about other things that are in this manager's amendment, local siting, under the right-of-way, the telecommunication development fund sponsored by the gentleman from New York [Mr. TOWNS], a lot of good things in this particular amendment. But I want to identify myself with the remarks made by the gentleman from Michigan. In my career I have never seen a more disingenuous lobbying effort by any segment of an industry.

The long-distance industry, I say shame on them.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. FIELDS of Texas. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I want to reiterate to my colleagues the process under which we are considering this legislation is no different than we have ever done wherever we have had differences between two committees, and the process of working out an amendment between those who supported the bill is an entirely sensible one. Had the gentleman from Texas desired to be a participant in that, he could have, * * * and the result of that is that he did not participate.

Mr. BRYANT of Texas. Mr. Chairman, I ask that the gentleman's words be taken down.

The CHAIRMAN. The gentleman from Michigan will suspend.

Does the gentleman ask unanimous consent to withdraw his reference?

Mr. DINGELL. Mr. Chairman, I ask unanimous consent to withdraw the words referred to.

Mr. BRYANT of Texas. Reserving the right to object, Mr. Chairman, I do not intend to go along with this unanimous-consent request unless there is an apology and an explanation that what he said was inaccurate, totally inaccurate, because I have had absolutely no involvement with the chairman with regard to the development of this amendment whatsoever, and so what he said was inaccurate.

Mr. Chairman, if the gentleman will acknowledge it was inaccurate, at that time I will be happy to go along with his unanimous-consent request.

The CHAIRMAN. Does the gentleman from Texas [Mr. BRYANT] yield under his reservation of objection to the gentleman from Michigan [Mr. DINGELL]?

Mr. BRYANT of Texas. I do, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I am not quite sure what the Chair is telling me.

The CHAIRMAN. The gentleman from Texas reserves the right to object, and under his reservation he has said that he would insist on having the gentleman's words taken down.

Mr. DINGELL. Mr. Chairman, if I said anything which offends the gentleman, I apologize.

The CHAIRMAN. The gentleman from Texas?

Mr. BRYANT of Texas. Further reserving the right to object, Mr. Chairman, I will not go along with the unanimous-consent request after the words that were spoken were so evasive as that. The fact of the matter is the gentleman made a factual allegation with regard to my role in this bill which was totally inaccurate. I want him to apologize, and I want him to state that it was not correct what he said because he knows it was not correct. Otherwise I would insist that the gentleman's words be taken down.

The CHAIRMAN. The gentleman from Texas [Mr. BRYANT] insists that the words of the gentleman from Michigan [Mr. DINGELL] be taken down.

Mr. DINGELL. Mr. Chairman, I would ask unanimous consent to withdraw the word ''sulk.''

The CHAIRMAN. Without objection, that word is withdrawn.

Mr. BRYANT of Texas. Further reserving the right to object, Mr. Chairman, I have made it very clear that the gentleman from Michigan [Mr. DINGELL] made an allegation about me that was incorrect, and I want him to state that it was not correct, and he knows it was not correct, and then I want him to apologize for it. Otherwise there is not going to be any withdrawal of my objection.

The CHAIRMAN. The gentleman from Texas [Mr. BRYANT] continues to reserve the right to object.

Mr. BRYANT of Texas. I would just point out once again I have had no dealings with the gentleman on this matter. He has no basis on which to make that statement whatsoever, nor have I had any dealings in any fashion interpretable in the way that the gentleman spoke to the other side, and, if he is going to persist in that allegation, then I am going to insist that his words be taken down.

The CHAIRMAN. Does the gentleman from Michigan care to respond?

Mr. DINGELL. Mr. Chairman, I am not quiet sure to what I am supposed to respond.

The CHAIRMAN. A unanimous-consent request has been made to withdraw the words. The gentleman from Texas has reserved the right to object to that unanimous-consent request stating, as he has stated, that he desires an apology and an understanding that it was factually incorrect.

Mr. DINGELL. Mr. Chairman, I have asked unanimous consent to withdraw the words. I have said that if I have said something to which the gentleman is offended, then I apologize. I am not quite sure how much further I can go in this matter.

Mr. BRYANT of Texas. Reserving the right to object, Mr. Chairman, I will tell the gentleman how much further he can go in this matter.

Mr. Chairman, I have had no visits with the gentleman about this manager's amendment except to express my general opposition to the whole process. The gentleman stated that I behaved in a particular way when in fact I have had no opportunity to behave either this way or any other way with the gentleman, and, if what the gentleman said is simply an outburst of temper, I think, I have been guilty of the same thing, and I want the gentleman to make it plain to the House that there has been no opportunity for there to have been any type of behavior whatsoever.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. BRYANT of Texas. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I will be pleased to make the observation that the gentleman chose not to be a participant in moving the bill forward. If I said that he has sulked, that was in error. I apologize to the gentleman.

The CHAIRMAN. Without objection, the words are withdrawn.

There was no objection.

Mr. BRYANT of Texas. Mr. Chairman, I withdraw my reservation of objection.

Mr. FIELDS of Texas. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Texas has 30 seconds remaining.

Mr. FIELDS of Texas. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the gentleman from Michigan has made it clear to Democrat Members this is a fair process, it is a good process. I want to say to Republican Members we have worked for 2½ years on opening the local loop to competition. If my colleagues want fair competition, if they want the loop open with a level playing field, vote for this manager's amendment. It is time to move this process forward, time to move the telecommunication industry into the 21st century.

Mr. TAUZIN. Mr. Chairman to enforce the long-distance restriction on the seven Bell companies, the district court approved the establishment of the so-called local access transport area or LATA system. The drawing of the LATA system is extraordinarily complex and confusing. There are 202 LATA's nationwide; four of them are in Louisiana and they bear no relationship to markets or customers. Yet it is the LATA system that is used to regulate markets and limit customer choices. LATA boundaries routinely split counties and communities of interest. LATA boundaries can even extend across State lines to incorporate small areas of a neighboring State into a given LATA. Louisiana does not have any of these so-called bastard LATA's but our neighboring State to the east, Mississippi, does. Towns and communities in the northwest corner of Mississippi, such as Hernando, are actually part of the Memphis LATA. That's Memphis, TN, not Mississippi.

The enforcement of the long-distance restriction on the seven Bell companies and the establishment of the LATA system effectively preempted State jurisdiction over entry and pricing of telecommunications service. In the process, State authority over intrastate inter-LATA telecommunications have been impeded. For example, in Louisiana the Public Service Commission instituted a rate plan that provided K–12 schools with specially discounted rates for high speed data transmission services. With the availability of the education discount, it was contemplated that school districts could upgrade their educational systems, establish computer hookups, and tie into their central school board locations to improve and facilitate administrative services. The public school system in Louisiana is aggressively implementing communications technology to improve access to educational resources and streamline administrative processes.

There are 64 parishes in Louisiana. Each parish has its own school district. Thirteen of the sixty-four parishes are traversed by a LATA boundary, meaning the school district locations in each parish are divided by the LATA system. Consequently, K–12 schools in the Allen, Assumption, Evangeline, Iberia, Iberville, Livingston, Sabine, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, Tangipahoa, Vernon, and West Feliciana Parishes are unable to take advantage of the education discount program as intended by the Louisiana Public Service Commission. The LATA boundary effectively prevents the schools in these 13 parishes from linking to the Louisiana Education Network and the Internet as well. These failures are attributable to the fact that the inter-LATA restriction dictates alternative, circuitous routing requirements to link the schools—making the service unaffordable. The chart to my right depicting the scenario of the Vernon Parish School District is just one example of this routing problem. The inability of these 13 school districts to network K–12 schools is denying the students, teachers, and administrators throughout these parishes the opportunity to utilize new tools for learning and teaching.

The LATA system arbitrarily segments the telecommunications market. Many business, public, and institutional customers, such as the 13 parish school districts in Louisiana, have locations in different LATA's which makes serving them difficult, costly, and inefficient. In Louisiana, BellSouth has filed tariffs with the Public Service Commission, is authorized to provide the high-speed data transmission services, and would be in a position to offer the services to the 13 school districts at specially discounted rates were it not for the inter-LATA long-distance restriction. In the alternative to BellSouth, to receive the desired service any one of the 13 school districts must resort to the arrangement by which the service is provisioned over the facilities of a long-distance carrier. Typically, this would involve routing the service from one customer location in one LATA to the long-distance carrier's point of presence in that LATA then across the LATA boundary to the carrier's point of presence in the other LATA and then finally to the other customer location to complete the circuit. As the explanation sounds, this alternative route utilizing the long-distance carrier's facilities is less direct, more circuitous, and more costly to the customer than a direct connection between the two customer locations. Of the 13 affected school districts in Louisiana, I have chosen the example of the Vernon Parish schools to show the cost penalizing effect of the inter-LATA restriction.

Most of the schools in Vernon Parish are in the Lafayette LATA and are connected by a

network based in Leesville. Unfortunately, two schools in the Hornbeck area are across a LATA boundary and linking them to Leesville is so expensive that Vernon parish has not been able to include them in the network.

Hornbeck is only 16 miles from Leesville but it is in a different LATA. BellSouth could provide a direct and economical connection between the Hornbeck schools and Leesville but it is prevented from doing so because of the inter-LATA restriction.

Instead, the connection between Hornbeck and Leesville would have to be made through an indirect routing arrangement involving a long-distance carrier, AT&T. In this scenario, the route would run from Hornbeck to Shreveport, then 185 miles across the LATA boundary to Lafayette, before finally reaching Leesville, a total distance of 367 miles.

The inter-LATA restriction forces Vernon Parish to use a longer and more expensive route to connect all the schools within its district. If BellSouth was allowed to provide the direct connection between Hornbeck and Leesville, the cost to connect the Hornbeck schools would be almost $48,000 less each year, a savings that could enable the parish to include them in the network.

The inter-LATA restriction is imposing a tremendous cost penalty on users of telecommunications and is preventing telecommunications from being used in cost effective and efficient ways. The manager's amendment would make it possible for customers like the Vernon Parish School District to take advantage of the benefits of telecommunications technology by giving them greater choices in service providers. For this reason, the manager's amendment is worthy of your support.

The relationship between section 245(a)(2)(A) and 245(a)(2)(B) is extremely important because they are, along with the competitive checklist in section 245(d), the keys to determine whether or not a Bell operating company is authorized to provide interLATA telecommunications services, that are not incidental or grandfathered services. As such, several examples will illustrate how these sections function together.

Example No. 1: If an unaffiliated competing provider of telephone exchange service with its own facilities or predominantly its own facilities has requested and the RBOC is providing this carrier with access and interconnection—section 245(a)(2)(A) is complied with.

Example No. 2: If no competing provider of telephone exchange services has requested access or interconnection—the criteria in section 245(a)(2)(B) has been met.

Example No. 3: If no competing provider of telephone exchange service with its own facilities or predominately its own has requested access and interconnection—the criteria in section 245(a)(2)(B) has been met.

Example No. 4: If a competing provider of telephone exchange with some facilities which are not predominant has either requested access and interconnection or the RBOC is providing such competitor with access and interconnection—the criteria in section 245(a)(2)(B) has been met because no request has been received from an exclusively or predominantly facilities based competing provider of telephone exchange service. Subparagraph (b) uses the words ''such provider'' to refer back to the exclusively or predominately facilities based provider described in subparagraph (A).

Example No. 5: If a competing provider of telephone exchange with exclusively or predominantly its own facilities, for example, cable operator, requests access and interconnection, but either has an implementation schedule that albeit reasonable is very long or does not offer the competing service either because of bad faith or a violation of the implementation schedule. Under the circumstances, the criteria 245(a)(2)(B) has been met because the interconnection and access described in subparagraph (B) must be similar to the contemporaneous access and interconnection described in subparagraph (A)—if it is not, (B) applies. If the competing provider has negotiated in bad faith or violated its implementation schedule, a State must certify that this bad faith or violation has occurred before 245(a)(2)(B) is available. The bill does not require the State to complete this certification within a specified period of time because this was believed to be unnecessary, because the agreement, about which the certification is required, has been negotiated under State supervision—the State commission will be totally familiar with all aspects of the agreement. Thus, the State will be able to provide the required certifications promptly.

Example No. 6: If a competing provider of telephone exchange service requests access to serve only business customers—the criteria in section 245(a)(2)(B) has been met because no request has come from a competing provider to both residences and businesses.

Example No. 7: If a competing provider has none of its own facilities and uses the facilities of a cable company exclusively—the criteria in section 245(a)(2)(B) has been met because there has been no request from a competing provider with its own facilities.

Mr. BUNNING. Mr. Chairman, I rise today in strong opposition to H.R. 1555, the Communications Act of 1995 and the manager's amendment.

My primary objection to this bill is process. We have waited 60 years to reform our communications laws. It needs to be done. We need deregulation.

But, I believe that if we waited 60 years to do it, we could wait another month, do it right, and work out some of the problems in this bill instead of ramming it through during the middle of the night.

If we would have gone a little more slowly, I believe that we could have come to an agreement that the regional Bells and the long distance companies could agree with. Instead we are passing a bill that I believe favors the regional Bells a little too much.

This bill makes it too easy for the regional Bells to get into long distance service and too difficult for cable and long distance companies to get into local service.

We should not allow the regional Bells into the long distance market until there is real competition in the local business and residential markets.

It is not AT&T, MCI, or Sprint that I am worried about. They are big enough to take care of themselves. I am concerned about the affect this bill will have on the small long distance companies who have carved themselves out a nice little niche in the long distance market.

This bill will put a lot of the over 400 small long distance companies out of business.

I agree that the bill that was originally reported out of committee probably did give an unfair edge to the long distance companies, but the pendulum has swung way too far in favor of the regional Bells. If we wait instead of passing this bill tonight we may be able to find a solution that is fair to everyone.

My second reason for opposing this bill is the fact that the little guys—many of the independent phone companies—got lost in the shuffle. This bill has been a battle of the titans. The baby Bells against AT&T and MCI.

But the big boys aren't the only players in telecommunications. There are plenty of smaller companies like Cincinnati Bell which services the center of my district in northern Kentucky.

This bill is not a deregulatory bill for Cincinnati Bell. It is a regulations bill. Although Cincinnati Bell has never been considered a major monopolistic threat to commerce, this bill throws it in with the big boys and requires them to live with the same regulations as the RBOC's—one size fits all.

For Cincinnati Bell and over 1,200 independent phone companies around the country this bill is a step in the wrong direction. It's more regulation rather than deregulation.

I also believe that this bill deregulates the cable industry much too quickly. We should not lift the regulations until there is a viable competitor to the cable companies.

The underlying principles in this bill are right on target. We need to deregulate telecommunications and increase competition. That will benefit everyone.

For that reason, I dislike having to vote against H.R. 1555.

But I firmly believe that even though this bill is on the right track, it is just running at the wrong speed. Let's slow down the train and do it right.

Mr. OXLEY. Mr. Chairman, I rise to express my firm support for the Communications Act of 1995 and the floor manager's amendment to it. The amendment improves the bill in a variety of areas, including some important refinements regarding foreign ownership.

The amendment clarifies section 303 of the bill giving the Federal Communications Commission authority to review licenses with 25 percent or greater foreign ownership, after the initial grant of a license, due to changed circumstances pertaining to national security or law enforcement. The Commission is to defer to the recommendations of the President in such instances.

In addition, I wish to clarify the committee report language on section 303 concerning how the Commission should determine the home market of an applicant. It is the committee's intention that in determining the home market of any applicant, the Commission should use the citizenship of the applicant—if the applicant is an individual or partnership—or the country under whose laws a corporate applicant is organized. Furthermore, it is our intent that in order to prevent abuse, if a corporation is controlled by entities—including individuals, other corporations or governments—in another country, the Commission may look beyond where it is organized to such other country.

These clarifications are intended to protect U.S. interests, enhance the global competitiveness of American telecommunications firms, promote free trade, and benefit consumer everywhere. They have the support of the administration and the ranking members of the Committee on Commerce, and I ask all members for their support.

On separate matter, I am aware that some of my colleagues who are from rural area, as I am, have concerns regarding the universal service provisions of H.R. 1555. I want them to know that I will work with them in conference to assure that rural consumers continue to receive the telephone service there have traditionally known. I am interested in working with my colleagues on perfecting the universal service language.

Mr. BOUCHER. Mr. Chairman, I rise in support of the manger's amendment and passage of the bill.

The bill is important because it will promote competition in all telecommunications markets, with attendant benefits for consumers and for the Nation's economy. The cable television market will be made fully competitive as telephone companies are given the right to offer cable television services. The local telephone market will be made fully competitive as cable companies and others are given the right to offer local telephone service. The long distance and telecommunications equipment markets will be made more competitive as the seven Bell operating companies are free to enter these markets.

Increased competition in all telecommunications markets will provide long-term consumer benefits. Consumers will see many new services, lower prices, and greater choices.

The bill will also encourage new investments by telecommunications companies, building for our Nation the much heralded National Information Infrastructure. As telephone companies seek to offer cable television service, they will need to install broadband facilities—fiber optic or coaxial lines—between their central offices and the premises of their users. Likewise, if cable companies desire to offer local telephone and data services, they will need to install switches to make their current broadband architecture interactive and two-way in nature. Both industries would then have the capabilities to deliver simultaneously telephone service, cable TV service, data services, and many other telecommunications services across their networks. The bill, therefore, will provide the business reasons for the major investments which are necessary to complete the National Information Infrastructure.

The manager's amendment is equally important for promoting competition in telecommunications markets. It establishes fair terms and conditions that will assure that the Bell companies open their local telephone networks before they are permitted to enter into the long distance and equipment markets. The manger's amendment creates a careful balance between the competing interests of the local telephone companies and long distance companies that was lacking in the bill reported from the Commerce Committee.

I strongly urge adoption of the manager's amendment and passage of the bill, and I yield to the gentleman from Illinois, Mr. HASTERT, for a colloquy regarding the language he and I have crafted which is contained in the manager's amendment and which governs the application of H.R. 1555's interconnection requirements to rural telephone companies.

Mr. HALL of Texas. Mr. Chairman, I am pleased to join my colleagues today in debating this important piece of legislation. The Communications Act of 1995 could easily be the most important legislation considered in this Congress. A lot of hard work and many long hours have been spent providing a delicate balance to all the competing interest in the communication's field. With this legislation, we need to be certain that we create true competition, without which the results could be disastrous not only for new market entrants, but for consumers as well.

There are many fine, small long-distance companies in my district. These good people are true entrepreneurs and hard workers. As the manager's amendment stands, I feel that these small businessmen will be threatened, all they want to do is compete. How are they to compete against a company that has the advantage of massive resources and a historical hold on the local market? After much discussion and compromise, not all sides had everything they wanted, but each side seemed pleased with what they had.

This is an important step in the modernization of a 60 year old Communications Act. The time is now, but it must be done in a carefully balanced approach. I feel the manager's amendment threatens the balance that was achieved in the bill that was overwhelmingly supported by the Commerce Committee and that is why I rise in opposition to this amendment.

The CHAIRMAN. All time for debate on this amendment has expired.

The question is on amendment 1–1 offered by the gentleman from Virginia [Mr. BLILEY].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BLILEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 256, noes 149, not voting 29, as follows:

[Roll No. 627]

AYES—256

Ackerman
Archer
Armey
Bachus
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bentsen
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Bonior
Bono
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Burr
Burton
Buyer
Callahan
Camp
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clinger
Clyburn
Coburn
Coleman
Combest
Cox
Cramer
Crane
Crapo
Cubin
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Dunn
Durbin
Ehlers
Ehrlich
Emerson
Eshoo
Farr
Fazio
Fields (TX)
Flake
Flanagan
Foley
Ford
Fox
Frank (MA)
Franks (CT)
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefner
Hilliard
Hobson
Hoekstra
Hoke
Hostettler
Hoyer
Hunter
Hutchinson
Hyde
Jackson-Lee
Jacobs
Johnson (CT)
Johnson, E.B.
Jones
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kleczka
Klug
Knollenberg
LaHood
LaTourette
Laughlin
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lowey
Manzullo
Martini
McCrery
McHugh
McInnis
McKeon
McKinney
Meek
Menendez
Metcalf
Mfume
Mica
Miller (CA)
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Myers
Myrick
Nadler
Neal
Nethercutt
Ney
Norwood
Nussle
Olver
Orton
Oxley
Packard
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pombo
Pomeroy
Porter
Portman
Quinn
Radanovich
Rahall
Ramstad
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Roybal-Allard
Royce
Rush
Salmon
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schumer
Scott
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Souder
Stearns
Stockman
Studds
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thompson
Thornberry
Thornton
Tiahrt
Torres
Torricelli
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Ward
Watt (NC)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Woolsey
Wynn

NOES—149

Abercrombie
Allard
Baesler
Baker (CA)
Baldacci
Bass
Becerra
Beilenson
Bereuter
Boehlert
Borski
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Calvert
Canady
Chapman
Clement
Coble
Collins (GA)
Collins (IL)
Conyers
Costello
Coyne
Cremeans
Cunningham
Danner
Davis
DeFazio
DeLauro
Dellums
Doggett
Doyle
Duncan
Edwards
Engel
English
Ensign
Evans
Everett
Ewing
Fattah
Fawell
Fields (LA)
Foglietta
Forbes
Fowler
Franks (NJ)
Frelinghuysen
Furse
Gejdenson
Gibbons
Gilman
Gonzalez
Gordon
Green
Hall (TX)
Hancock
Harman
Hefley
Heineman
Hilleary
Hinchey
Holden
Horn
Houghton
Inglis
Istook
Jefferson
Johnson (SD)
Johnson, Sam
Johnston
Kanjorski
Kasich
Kingston
Klink
Kolbe
LaFalce
Lantos
Largent
Latham
Lazio
Leach
Lipinski
Lofgren
Lucas
Luther
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McCollum
McDermott
McHale
McNulty
Meehan
Meyers
Mineta
Minge
Mink
Moran
Morella
Murtha
Neumann
Oberstar
Obey
Pallone
Petri
Poshard
Pryce
Quillen
Reed
Regula
Rivers
Roth
Sabo
Sanders
Sanford
Seastrand
Sensenbrenner
Skaggs
Skelton
Slaughter
Smith (TX)
Spence
Stark
Stenholm
Stokes
Stupak
Tanner
Thomas
Torkildsen
Velazquez
Vento
Visclosky
Volkmer
Wamp
Waters

Watts (OK)	Wyden	Zeliff
Wolf	Yates	Zimmer

NOT VOTING—29

Andrews	Maloney	Spratt
Bateman	McDade	Thurman
Collins (MI)	McIntosh	Towns
Condit	Moakley	Tucker
Cooley	Ortiz	Waxman
de la Garza	Owens	Williams
Filner	Rangel	Wilson
Hayes	Reynolds	Young (AK)
Herger	Rose	Young (FL)
Kaptur	Scarborough	

☐ 0910

The Clerk announced the following pair:

On this vote:

Mr. Scarborough for, with Mr. Filner against.

Mr. GILMAN, Mr. STOKES, and Ms. FURSE changed their vote from ''aye'' to ''no.''

Messrs. JONES, KIM, MFUME, BARCIA, HEFNER, and JEFFERSON, Ms. WOOLSEY, Mrs. KELLY, and Ms. MCKINNEY changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. MALONEY. Mr. Speaker, I inadvertently missed rollcall vote 627. Had I been present, I would have voted ''yes.''

The CHAIRMAN. It is now in order to consider amendment No. 2–1 printed in part 2 of House Report 104–223.

AMENDMENT NO. 2–1 OFFERED BY MR. STUPAK

Mr. STUPAK. Mr. Chairman, I offer an amendment, numbered 2–1.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2–1 offered by Mr. STUPAK: Page 14, beginning on line 8, strike section 243 through page 16, line 9, and insert the following (and conform the table of contents accordingly):

SEC. 243. REMOVAL OF BARRIERS TO ENTRY.

(a) IN GENERAL.—No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide interstate or intrastate telecommunications services.

(b) STATE AND LOCAL AUTHORITY.—Nothing in this section shall affect the ability of a State or local government to impose, on a competitively neutral basis and consistent with section 247 (relating to universal service), requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

(c) LOCAL GOVERNMENT AUTHORITY.—Nothing in this Act affects the authority of a local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of the rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government.

(d) EXCEPTION.—In the case of commercial mobile services, the provisions of section 332(c)(3) shall apply in lieu of the provisions of this section.

The CHAIRMAN. Pursuant to the rule, the gentleman from Michigan [Mr. STUPAK] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Does the gentleman from Virginia rise to claim the time?

Mr. BLILEY. Mr. Chairman, I do.

The CHAIRMAN. The gentleman from Virginia [Mr. BLILEY] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, I am offering this amendment with the gentleman from Texas [Mr. BARTON] to protect the authority of local governments to control public rights-of-way and to be fairly compensated for the use of public property. I have a chart here which shows the investment that our cities have made in our rights-of-way.

☐ 0915

Mr. Chairman, as this chart shows, the city spent about $100 billion a year on rights-of-way, and get back only about 3 percent, or $3 billion, from the users of the right-of-way, the gas companies, the electric company, the private water companies, the telephone companies, and the cable companies.

You heard that the manage's amendment takes care of local government and local control. Well, it does not. Local governments must be able to distinguish between different telecommunication providers. The way the manager's amendment is right now, they cannot make that distinction.

For example, if a company plans to run 100 miles of trenching in our streets and wires to all parts of the cities, it imposes a different burden on the right-of-way than a company that just wants to string a wire across two streets to a couple of buildings.

The manager's amendment states that local governments would have to charge the same fee to every company, regardless of how much or how little they use the right-of-way or rip up our streets. Because the contracts have been in place for many years, some as long as 100 years, if our amendment is not adopted, if the Stupak-Barton amendment is not adopted, you will have companies in many areas securing free access to public property. Taxpayers paid for this property, taxpayers paid to maintain this property, and it simply is not fair to ask the taxpayers to continue to subsidize telecommunication companies.

In our free market society, the companies should have to pay a fair and reasonable rate to use public property. It is ironic that one of the first bills we passed in this House was to end unfunded Federal mandates. But this bill, with the management's amendment, mandates that local units of government make public property available to whoever wants it without a fair and reasonable compensation.

The manager's amendment is a $100 billion mandate, an unfunded Federal mandate. Our amendment is supported by the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, the National Conference of State Legislatures and the National Governors Association. The Senator from Texas on the Senate side has placed our language exactly as written in the Senate bill.

Say no to unfunded mandates, say no to the idea that Washington knows best. Support the Stupak-Barton amendment.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. BARTON], the coauthor of this amendment.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Chairman, first I want to thank the gentleman from Virginia [Mr. BLILEY], the gentleman from Texas [Mr. FIELDS], and the gentleman from Colorado [Mr. SCHAEFER], for trying to work out an agreement on this amendment. We have been in negotiations right up until this morning, and were very close to an agreement, but we have not quite been able to get there.

I thank the gentleman from Michigan [Mr. STUPAK] for his leadership on this. This is something that the cities want desperately. As Republicans, we should be with our local city mayors, our local city councils, because we are for decentralizing, we are for true Federalism, we are for returning power as close to the people as possible, and that is what the Stupak-Barton amendment does.

It explicitly guarantees that cities and local governments have the right to not only control access within their city limits, but also to set the compensation level for the use of that right-of-way.

It does not let the city governments prohibit entry of telecommunications service providers for pass through or for providing service to their community. This has been strongly endorsed by the League of Cities, the Council of Mayors, the National Association of Counties. In the Senate it has been put into the bill by the junior Republican Senator from Texas [KAY BAILEY HUTCHISON].

The Chairman's amendment has tried to address this problem. It goes part of the way, but not the entire way. The Federal Government has absolutely no business telling State and local government how to price access to their local right-of-way. We should vote for localism and vote against any kind of Federal price controls. We should vote for the Stupak-Barton amendment.

Mr. BLILEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Colorado [Mr. SCHAEFER].

Mr. SCHAEFER. Mr. Chairman, I rise in strong opposition to this Stupak amendment because it is going to allow the local governments to slow down and even derail the movement to real competition in the local telephone