AMENDMENT NO. 1325, AS MODIFIED

Mr. WARNER. Madam President, to correct what seems to be an imperfection, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The amendment (No. 1325), as modified, is as follows:

At the end of section 222 of the bill, insert the following:

(c) ADDITIONAL REQUIREMENTS RELATING TO RESEARCH AND DESIGN ACTIVITIES WITH RESPECT TO MANUFACTURING.—(1) In addition to the rules required under section 256(a)(2) of the Communications Act of 1934, as added by subsection (a), a Bell operating company may not engage in the activities or enter into the agreements referred to in such section 256(a)(2) until the Commission adopts the rules required under paragraph (2).

(2) The Commission shall adopt rules that—

(A) provide for the full, ongoing disclosure by the Bell operating companies of all protocols and technical specifications required for connection with and to the telephone exchange networks of such companies, and of any proposed research and design activities or other planned revisions to the networks that might require a revision of such protocols or specifications,

(B) prevent discrimination and cross-subsidization by the Bell operating companies in their transactions with third parties and with the affiliates of such companies; and

(C) ensure that the research and design activities are clearly delineated and kept separate from other manufacturing activities.

Mr. PRESSLER. We have no objection to this amendment being laid over until tomorrow.

I ask unanimous consent that amendment No. 1325, as modified, be set aside until tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. PRESSLER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Madam President, I mentioned earlier that over 500 delegates of the, I think, about 1,600 or 1,700 delegates to the Small Business Conference going on now at the White House have written me letters—and also have written President Clinton—urging that he support the Senate version of the Telecommunications Competition and Deregulation Act and that the Senate pass it.

I just pulled out of this packet of 500 letters, one letter from a Mr. Robbie Smith, Smith Communications in Chicago, IL. I do not know him, but he is a delegate to the Small Business Conference now going on at the White House. He wrote the following, and I think it is important, because it is illustrative that small business strongly supports this legislation.

I am writing to urge you to support S. 652, the Telecommunications Competition and Deregulation Act, which would bring about changes in how telecommunications products and services are sold that would greatly benefit the small businesses of our state.

A recent survey, sponsored by the National Federation of Independent Business Foundation, found that a full 86 percent of small business owners said they want the convenience of ''one-stop shopping'' for telecommunications services.

S. 652 would bring us one-stop shopping. By creating a more competitive marketplace that will let local Bell companies and long-distance companies and cable companies all compete in each other's traditional businesses, it will provide small businesses with the convenience and lower prices we need.

In enacting legislation, we urge Members of Congress to keep in mind ''Five Easy Pieces'' of guidance from small business on what constitutes good telecommunications policy.

1. For small businesses as customers, we need legislation that maximizes choice and affordability by simultaneously opening all telecommunications markets—at the earliest possible date—to full and equal competition among vendors.

2. For small businesses as customers, we need legislation that minimizes confusion and complexity by letting all vendors compete to offer us one-stop shopping for the full array of telecommunications products and services.

3. For all small businesses, we need legislation that maximizes flexibility and minimizes regulation, so introduction of new products and services can keep pace with rapid technological and market changes.

4. For small businesses as vendors, we need legislation that maximizes opportunities for us to create and sell innovative new products and services by removing regulatory constraints.

5. For small businesses in rural or high-cost areas, we need legislation that maximizes universal opportunity by insuring—through a fair system of cost sharing—that some parts of our country do not become too costly in which to operate, or technological backwaters.

We believe S. 652 achieves these objectives. Please support S. 652.

The small businesses of our state thank you for your consideration.

What this letter is saying and seems to represent, talking of small businessmen, the majority of small businessmen—and indeed I guess there might be at some point some resolutions adopted over there. They made it a point to get to the Senate today over 500 letters supporting the Senate version of the Telecommunications Competition and Deregulation Act. They have also given the same letters to President Clinton, urging him to support it. I hope he is listening closely to the small businessmen in his White House conference.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BOXER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Madam President, I ask unanimous consent to speak as in morning business for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DR. HENRY FOSTER DESERVES A VOTE

Mrs. BOXER. Madam President, perhaps I am interrupting the flow of the telecommunications bill for just 1 or 2 minutes because I promised that I would do so every day until we hear that there are plans to bring the nomination of Dr. Henry Foster for Surgeon General to the Senate for a vote.

Senator Pat MURRAY from Washington and I brought this issue up yesterday. We noted very clearly that Dr. Foster was nominated by President Clinton in February. This country has no Surgeon General.

We still have an AIDS epidemic, Madam President. We have an epidemic of teen pregnancy. I know my friend who is sitting in the chair now strongly supports efforts to reduce the rate of teen pregnancy and strongly supports efforts to reduce the rate of AIDS.

We now have a tuberculosis epidemic that has reemerged, after we thought we had solved the problem. We have teens smoking in great numbers.

This is the business of the Surgeon General, to look over the health issues. In the Senate we look over so many issues—telecommunications—complicated issues, difficult issues. They change every day. The Surgeon General will look after the health of this country.

We know when we have healthy babies and they are immunized and there is prenatal care for women, and we know when there is less drug use and alcohol use in our Nation, we become a much more productive nation. Certainly, as we are going to look a the welfare reform bill, we know one of the greatest causes of welfare is, simply put, that teens are having babies. This is a problem we must deal with.

Again, I call on the majority leader to please move forward this nomination. Dr. Foster showed he had the true grit to stand the criticism. He emerged out of the committee with a bipartisan, favorable vote.

I look forward to debating this nomination on the floor. I certainly hope that because an individual is an ob/gyn, an obstetrician/gynecologist, and in that practice performed a small number of abortions and yet brought 10,000 babies into the world, it would not be used against that individual and that this will not become a pawn in the Presidential nomination. It would be very sad. I think the American people are very fair people. This man deserves a vote. This man deserves a hearing.

I just really hope that the majority leader will come to the floor—perhaps today, tomorrow, this week—and tell Members when we can hope to have the Foster nomination brought before the full Senate.

I thank the Senate. I thank my colleagues. I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ASHCROFT). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1298

(Purpose: To improve the provisions relating to cable rate reform)

Mr. LIEBERMAN. Mr. President, at this time I call up amendment No. 1298.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN] proposes an amendment numbered 1298.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . DETERMINATION OF REASONABLENESS OF CABLE RATES.

(a) COMMISSION CONSIDERATION.—Notwithstanding any other provision of this Act or section 623(c), as amended by this Act, for purposes of section 623(c), the Commission may only consider a rate for cable programming services to be unreasonable if it substantially exceeds the national average rate for comparable programming services in cable systems subject to effective competition.

(b) RATES OF SMALL CABLE COMPANIES.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act or the amendments made by this Act, the regulations prescribed under section 623(c) shall not apply to the rates charged by small cable companies for the cable programming services provided by such companies.

(2) DEFINITION.—As used in this subsection, the term 'small cable company' means the following:

(A) A cable operator whose number of subscribers is less than 35,000.

(B) A cable operator that operates multiple cable systems, but only if the total number of subscribers of such operator is less than 400,000 and only with respect to each system of the operator that has less than 35,000 subscribers.

Mr. LIEBERMAN. Mr. President, I am delighted to see occupying the chair at this time, the distinguished former attorney general of the State of Missouri, because my interest in this subject of the regulation of cable rates started in 1984 when I was the attorney general of the State of Connecticut.

We had established a system similar in many ways, different in some ways, to other States and municipalities around the country to deal with the advent of this exciting new technology, cable television, in which our State—during the 1960's, originally, and the 1970's—had given out franchises for cable television in different areas of the State. These were monopolies. Because they were monopolies, which is to say there was only one that any consumer had any access to in the State of Connecticut, they were subject to a kind of public utilities regulation, since there was no competition.

This went on until 1984 when the Congress in its wisdom, without the participation of the occupant of the chair or myself, at that time passed an act which prohibited the States from regulating the cost of cable. As I will document in a moment or two, there was a great outcry from many of us at the State level, first on the basis of federalism, that we had been deprived of this opportunity to exercise our capacity and obligation to protect our consumers in the State of Connecticut or elsewhere as we saw fit, but also because the effect of the congressional act of 1984 was to leave cable consumers facing monopolies, only one cable provider, without the benefit of protection from consumer protection legislation, and without the benefit of competition.

What happened I will document in a moment or two, but it ultimately led to a very successful effort in 1992 to adopt a cable act which was passed with strong bipartisan majorities, and was vetoed by President Bush. It turned out to be the only veto of the Bush years that was overridden by this Congress. The Cable Act of 1992 went into effect, with positive effect, as I will describe in a moment. Then, suddenly as part of this major reform of telecommunications, there appears what amounts to the evisceration of that cable consumer protection.

So just 3 years after passing that landmark legislation to bring competition to cable television and keep regulation until that competition came, just 3 years after the effort began once again to hold down cable rates for the millions of cable consumers around America until competition emerges, we are now considering a bill that I am afraid will undo many of the consumer protection benefits of the 1992 Cable Act.

The amendment that I have introduced this evening, No. 1298, will prevent the dismantling of the cable consumer protections of the 1992 act.

Mr. President, I assume we all agree—I certainly do—that competition is the best way to set prices. Markets can set prices much more accurately and effectively than regulators can. Although consumers cannot really reap the benefits of competition, obviously, until there is effective competition in their local markets, the amendment that I am introducing, I think, will provide consumers with some of the advantages of competition. Without competition, monopolies have the license to unreasonable rate increases. So we have a choice. When there is no competition, we can have regulation, or we can just simply say let the monopolies go.

The cable rate regulation included in the current underlying bill before us, in my opinion, does not prevent monopoly abuses, and virtually deregulates cable, which means that without this amendment we are inviting the majority of cable companies to raise their rates. And, unfortunately, we are guaranteeing that the majority of our constituents, many of whom may be watching tonight, are going to see increases in the cost of cable television every month, unless we act to amend this bill. And I believe the amendment I am offering is a good procompetitive way to do so, consistent with the overall procompetitive spirit of this legislation.

Mr. President, before my colleagues vote on this matter, I think it is imperative to review the current status of cable regulation and how it is working.

First of all, let us ask what has happened since we passed the Cable Act of 1992; and, second, what impact will this legislation before us have? My concern again is that this legislation, if unamended, virtually guarantees significant cable rate increases before competition comes to the cable market. And today, the FCC tells us that only 50 of the more than 10,000 cable markets in America have effective competition. That means if we have constituents in the 9,950-plus other markets, and if this legislation goes forward as it is, they are probably going to see a cable rate increase.

What I see happening here is the potential for this Congress to make the same mistake that was made in 1984 when the cable industry was deregulated based on the promise or the hope that competition was right around the corner.

In 1984, it was the promise of competition from satellites to the traditional cable. Now it is again and still the promise of satellite competition plus the promise of telephone company competition. After the 1984 act passed the Congress, the fact is that the cost of cable television skyrocketed. Today only one-half of 1 percent of cable consumers receiving satellite service from DBS, direct broadcast satellite, which is the new satellite competitor, and only experimental efforts exist today to transmit cable over telephone lines. It is only natural to fear that cable rates will shoot up again under the current bill.

Let me just go back over that. The promise of satellite reception for cable consumers, television consumers, was ripe in the air in 1984 when cable was deregulated. Today, 11 years later, one-half of 1 percent of the television consumers with multichannel service receive that service from the Direct Broadcast Satellite.

The last time Congress prematurely deregulated cable rates, the General Accounting Office found that the price of basic cable service rose more than 40 percent in the first 3 years without regulation. And 40 percent is three times the rate of inflation during that same period of time, 1986 to 1989, and four times the level of increases experienced under regulation.