

is necessary and fundamentally needed for the defense of the United States.

I support the Senator from Tennessee.

DEUTSCHE TELEKOM

Mr. HOLLINGS. Mr. President, two Saturdays ago, Mr. Peter S. Goodman reported in the Washington Post on the design of Deutsche Telekom, a German government company, which is designed to take over any and all U.S. telecommunications. In the final paragraph of that particular story, the head of Deutsche Telekom said, no, they were not interested in joint ventures. They were interested in total control.

This Senator from South Carolina participated in the 1996 Telecommunications Act, deregulating and decontrolling the American telecommunications industry. We certainly didn't take it out from under American control to put it under German government control.

I placed a call to the head of the Federal Communications Commission. We had a conversation.

I ask unanimous consent that my letter of June 28 denoting that conversation be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, June 28, 2000.

Hon. WILLIAM KENNARD,
Chairman, Federal Communications Commission, Washington, DC.

DEAR MR. CHAIRMAN: When I called, I knew what your answer would be. Section 310 of the Communication Act of 1934 forbids a foreign government or any entity with 25% or more foreign government ownership or control from being granted a license by the FCC. I knew of the public interest waiver, but in the 66 years of the Act the FCC has never waived, in any significant fashion, the law for foreign government ownership. I knew, also, that the Global Telecommunication Agreement permitted the FCC to consider the public interest satisfied if the entity or government was a member of the WTO. However, this was permissive and not mandated. And other countries, members of the WTO—Italy, Spain, and Hong Kong—have prohibited foreign government ownership. I knew, also, that the Congress and the Commission have been all out for competition and that competition has cost domestic companies their profits and values, making our companies vulnerable to foreign takeover. And to my amazement, when I asked the FCC position on foreign government ownership you hedged. First, you said it "was complicated". You did mention the 310 statute, but then talked about the WTO requirement. I countered it was not a required and certainly not in the public interest. You continued telling me you wanted to come up to discuss it with me to learn my position. I kept telling you I was giving you my position by calling. I'm opposed to foreign government ownership. Yesterday, I introduced a bill tightening legal prohibitions against foreign government ownership. Thereupon, you said well, if US West was taken over by a foreign government the Western states would be in an uproar. I countered I was already in an uproar. Again, you wanted to come up and discuss to learn my position. I stated that no further discussion was necessary and I asked that

when responding to any downtown lawyers inquiring to learn the position of the Commission, that you refer them to the law. You then said you weren't getting any calls, that your phone "wasn't ringing off the hook". I said I knew that the downtown lawyers were smart enough not to call directly, but to find out indirectly the position of the Commission. The call was then terminated without you stating your position, leaving me totally frustrated.

A treaty confirmed by a 2/3 vote in the Senate amends the law—not an agreement. And the global telecommunications agreement was never submitted to Congress. I can't emphasize enough that the WTO provision isn't absolute, only permissive. I can't imagine you taking the extreme position of government ownership and concluding this was in the public interest—particularly after all the effort we have made with the 1996 Telecommunications Act to deregulate and afford competition. Now, to allow a foreign government, protected from competition, to pick up a domestic telecommunications company, bloodied by the competition, and control telecommunications in the United States is unthinkable.

With kindest regards, I am

Sincerely,

ERNEST F. HOLLINGS.

Mr. HOLLINGS. Mr. President, since the distinguished Chairman of the Federal Communications Commission was rather elusive in that conversation, I then prevailed on 29 other colleagues in the Senate in a letter of June 29—the next day—and again on July 12, since I had not received a response.

I ask unanimous consent to have printed in the RECORD those particular letters dated June 29 and July 12 to the Chairman of the Federal Communications Commission.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, June 29, 2000.

Hon. WILLIAM KENNARD,
Chairman, Federal Communications Commission, Washington, DC.

DEAR MR. CHAIRMAN: Recently, a foreign government owned telecommunications monopoly announced that it planned to purchase a controlling interest in a major U.S. telecommunications firm. This is contrary to U.S. law and is inconsistent with our policy to promote competition and maintain a secure communications system for our national security.

We would not be alone among WTO member countries in adopting this point of view. Italy, Spain and Hong Kong have prohibited similar transactions when the acquiring company was owned by a foreign government. U.S. regulators should be similarly skeptical of such acquisitions in this country.

Congress and the FCC have made tremendous progress with the passage of the 1996 Telecommunications Act in deregulating and forcing competition in our domestic communications market. This has promoted investment and the fruits of this competition have been a dramatic reduction in cost and more choice for American consumers. This competition and the strict enforcement of our anti-trust laws have also rendered these same domestic companies vulnerable to takeover by foreign firms which are still owned substantially by their governments.

To allow a foreign government owned corporation to purchase a U.S. telecommunications company would be putting domestic

competitors at the mercy of a foreign government. No country should allow this.

We are not opposed to foreign investment in U.S. communications firms. Rather, as the U.S. law provides, we oppose the transfer of licenses to companies who are more than 25 percent foreign government owned. For example, there was no objection to Vodafone's purchase of Airtouch or France Telecom's holding a non-controlling (10 percent) interest in Sprint.

For these reasons, we would urge that you highly scrutinize any merger involving foreign government owned providers.

Sincerely, Ernest F. Hollings and 29 other Senators.

U.S. SENATE,

Washington, DC, July 12, 2000.

Hon. WILLIAM KENNARD,
Chairman, Federal Communications Commission, Washington, DC.

DEAR MR. CHAIRMAN: Recent press reports indicate that foreign government owned telecommunications monopolies are interested in purchasing a variety of U.S. telecommunications assets. Such an action would be contrary to U.S. law, which is clear on this issue. I urge that you publicly address this issue and put to an end the speculation that such a transaction might be approved.

The World Trade Organization Global Basic Telecommunications Agreement does not address government owned providers. Moreover, U.S. statutory law is quite specific. Under 47 U.S.C. 310(a) governments or their representatives are barred outright from purchasing U.S. telecommunications entities. Deutsche Telekom or France Telecom, for example, fit this mold. Indeed, Business Week specifically notes this week that one third of Deutsche Telekom's employees are government workers who cannot be terminated. In 1995, Scott Blake Harris, then head of the FCC's International Bureau, testified before the Senate Commerce Committee that Section 310(a)'s outright ban on foreign government ownership of radio licenses should be retained. Subsequent to the 1996 Telecommunications Act, he wrote in the National Law Journal: "More problematic, however, are the restrictions placed by the Communications Act on ownership of wireless licenses by a foreign government or its 'representative.' Section 310(a) flatly prohibits a foreign government or its representative from holding any wireless license, directly or indirectly. This limitation is not subject to being waived by the FCC." In that article, he specifically mentioned Deutsche Telekom and France Telecom relative to that ban.

Others argue that these transactions may come under Section 310(b) of the Communications Act. In 1995, U.S. Trade Representative Mickey Kantor wrote Senator Robert Byrd that Section 310(b) "is regarded by foreign companies as a major barrier to market access in the United States." He went on to indicate that legislative authority was needed to "remove this restraint through international negotiations." As you well know, after extensive debate and consideration of this issue in both the House and Senate, the 1996 Telecommunications Act did not provide such authority. Thus, it is not surprising that the European Union, in a 1999 trade report, identifies Section 310 as retaining force and effect, notwithstanding the Global Basic Telecommunications Agreement in 1997. As the European Union correctly recognizes, an executive agreement cannot override U.S. statutory text. As George Washington stated in his farewell address, "If the distribution or modification of the powers under the Constitution be in any particular wrong, let it

be changed in the way the Constitution designates, for while usurpation in the one instance may be the instrument of good, it is the customary weapon by which free governments are destroyed."

The law is clear. Moreover, public policy dictates that we not permit the anticompetitive acquisition of our domestic telecommunications companies by foreign government owned entities. It's unthinkable, for example, under present law that Bell South is forbidden from buying AT&T, but Deutsche Telekom, a monopoly owned by the German government with one third of their employees enjoying permanent employ, can buy AT&T. Bottom line: We did not deregulate U.S. telecommunications to permit the regulated foreign government owned telecommunications companies to take over the U.S. market.

Sincerely,

ERNEST F. HOLLINGS.

Mr. HOLLINGS. Mr. President, finally, on July 20, I received a letter from the Honorable William E. Kennard, Chairman of the Federal Communications Commission, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEDERAL COMMUNICATIONS COMMISSION,

Washington, DC, July 20, 2000.

Hon. ERNEST F. HOLLINGS,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR HOLLINGS: Thank you for your letter regarding the reported plans of foreign government-controlled companies to purchase a majority interest in U.S. telecommunications firms. As you know, there is presently no application of the type you describe before the Federal Communications Commission, and thus I can only address your concerns as a hypothetical matter. Nevertheless, I share your concern that purchase of a U.S. carrier by a foreign government-controlled company does present unique competition issues. Please be assured that I will carefully scrutinize any transaction in which a foreign government-controlled telecommunications carrier seeks to control a U.S. carrier.

Any such proposed transaction would come before the Commission as an application to exceed 25 percent foreign indirect ownership of a common carrier radio license. In that case, the applicant would have to meet both the statutory and regulatory requirements established by Congress and the Commission.

I wholeheartedly agree that we have made tremendous progress since the passage of the Telecommunications Act of 1996 in deregulating and prying open our domestic communications market and that we must remain vigilant in ensuring that our market stays open and robust. Moreover, I believe, as you do, that the Commission's approach must promote competition and maintain a secure telecommunications system for our national security. Thus, while it would be inappropriate for me to prejudge the outcome of a hypothetical transaction, I assure you that I would give close scrutiny to any merger involving foreign government-controlled providers to determine whether it would pose a very high risk to competition in the United States, compromise national security, and be consistent with the Communications Act, the FCC's rules and U.S. international obligations.

As always, I welcome the opportunity to work with you to further address any ques-

tions or concerns related to our scrutiny of such transactions.

Sincerely,

WILLIAM E. KENNARD,
Chairman.

Mr. HOLLINGS. Mr. President, sections 310(a) and 310(b) are very clear.

It could be noted historically—because there has been an ongoing intramural debate with respect to the turning over of our telecommunications to foreign governments by the White House, by this administration, by the U.S. Trade Representative, Ambassador Barshefsky, and its minions—that we have had to struggle with, and I included those documents.

I reference also that particular letter of July 12 because in there I cited the ongoing concern of then former Ambassador Mickey Kantor with respect to German government participation in America's telecommunications.

I also cited in there that the head of the international bureau, Mr. Scott Blake Harris, in 1995, testified before the Senate Commerce Committee that section 310(a)'s outright ban on foreign government ownership should be retained.

Of course, we had the act in February of 1996. Subsequent to that, later in 1996, the head of the FCC's former international bureau, just retired, included a very instructive article in the National Law Journal:

More problematic, however, are the restrictions placed by the Communications Act on ownership of wireless licenses by a foreign government or its representative. Section 310(a) flatly prohibits a foreign government or its representative from holding any wireless license, directly or indirectly. This limitation is not subject to an FCC waiver.

Mr. President, there is no question that law has not been changed.

I know about the attempts made by Ambassador Barshefsky and the global telecommunications agreement in 1997—that if you are a Member of the WTO, then you automatically qualify under the public interest requirement of the telecommunications law to own U.S. telecommunications assets. They say it's in the public interest, that it promotes competition.

That has been the wag, or argument, that I have heard from time immemorial. But that is not the case at all. You take Deutsche Telekom, which recently had a bond issue. It was very successful—\$14 billion. Mind you me, they wouldn't have collected some \$14 billion if it were a private company. But this is "a government cannot fail" with one-third of the employees having permanent employment. You cannot fire them. That is Deutsche Telekom, and by the Chairman's own acknowledgment, with 58-percent German government ownership.

We are not talking about German entities. We are talking about the German government. You can't let foreign governmental ownership enter the free market here, a market that has been deregulated by the 1996 Telecommunications Act, and say: Oh, yes, we are ready to compete.

We have a strange situation whereby Deutsche Telekom under Ambassador Barshefsky and some in the White House—and perhaps some at the FCC—say: Yes. It is already in the public interest. They are competitive; we are promoting competition. But Deutsche Telekom can take over, let's say, AT&T, but under the law, categorically, Bell South cannot.

Let me mention why I emphasize the German government—because there was a letter by the distinguished chairman of our committee, the Senator from Arizona, Mr. MCCAIN, in which he referred to "entities." He didn't refer to the government. Let's get right to entities and globalization.

There was a recent article that said, after all, Senator HOLLINGS was a veteran of World War II where he fought against the Germans. It suggested that Sen. HOLLINGS was anti-German and that he thought maybe the German government wouldn't be friendly. You know, coming from South Carolina, we are supposed to be dumb, and Senator HOLLINGS just didn't understand that we have moved into globalization, the world economy, and world competition.

I don't want to sound like Vice President Gore, but I am constrained to acknowledge that maybe I helped start globalization. As the Governor of South Carolina in 1960, I went to Europe in order to attract German industry investment in South Carolina. As I stand on the floor, I have 116 German industries in the State of South Carolina. I have the headquarters of British Bowater. I have the North American headquarters of Michelin. They have 11,600 employees. I have Hoffman-LaRoche from Switzerland.

You ought to come down there and join the smorgasbord of global competition.

That is not the case that concerns the Senator from South Carolina. What concerns me is "governmental." We certainly didn't deregulate American control to put it under German control. It is that clear. It does not require any careful review. The law is the law. We refuse to change it. The White House acts like it has been changed. Some on the FCC act like it has been changed. The law and the policy have not been changed.

Several things have occurred. We have a bill in with 15 cosponsors, with the distinguished majority and minority leaders as cosponsors. We have over on the House side Congressmen Dingell and Markey who introduced a similar bill. We put a rider on the Commerce-Justice-State appropriations bill, which is an appropriations bill that lasts for only one year, and no money is to be expended to give licenses to foreign governments under Section 310.

You would think that they would get it. The Dutch got it. It is very interesting that KPN tried to take over Telefonica d'Espana. They were rejected. Incidentally, Deutsche Telekom tried to take over Telecom Italia. Italy voted them out. Singapore Tel tried to

take over Hong Kong Telephone. Hong Kong voted them out.

I ask unanimous consent to have this article dated July 19 printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DUTCH STATE TO SLASH KPN STAKE
(By Kirstin Ridley and Matt Daily)

LONDON/THE HAGUE, July 19 (Reuters)—The Dutch government may slash its 43.5 percent stake in Dutch carrier KPN Telecom to just over 20 percent as part of a global share issue slated for the fourth quarter, an industry source said on Wednesday.

KPN is hoping to raise around 15 billion euros (\$14 billion) from the issue, with about four billion slated for third generation mobile investments in Germany, the Netherlands and Belgium and 10 billion for the government, the source said.

The Dutch state had hoped to raise around nine billion euros from its current auction of UMTS licenses. But with only five major contenders for five licenses, analysts say earlier estimates look for too high, and some now believe the licenses might only fetch around three billion euros.

That shortfall for government coffers could now be made up with the KPN share issue.

The Dutch Finance Ministry, whose large KPN stake was blamed for prompting Madrid to help derail Dutch merger talks with Spanish carrier Telefonica in May, said only it would take part in the stock issue "in a big way".

"We can't say the percentage (of our stake that will be sold in the issue) * * * but we are going to participate in the offering because we have said in the long-term we would get rid of our stake," said Finance Ministry spokesman Stephan Schrover.

The Dutch government has said it will have sold its entire KPN stake by 2004. But it has so far given no timing details, and news of the share issue sent KPN's stock plunging.

It ended 7.3 percent lower at 42.87 euros, valuing the company at around 44.2 billion euros.

The industry source also noted that a listing of KPN Mobile, KPN's cellphone business which is 15 percent-owned by Japanese mobile phone giant NTT DoCoMo, was "pencilled in" for next February or March. It was delayed from an earlier proposed date of September, 2000, due to the planned KPN share issue.

KPN EYES BELGIAN BUY-OUT

Meanwhile KPN, which is seeking to buy the 50 percent it does not own in Belgian mobile phone group KPN Orange, is likely to offer its current joint venture partner France Telecom around one billion euros for its stake.

France Telecom has to resolve questions surrounding its 50 percent stake in KPN Orange, which it inherited from its takeover of British mobile phone company Orange, for regulatory reasons because it holds a competing Belgian cellphone operator.

KPN will raise the 15 billion initially through a short-term bridging loan, which it will pay back swiftly from the issue.

For bankers say KPN would risk compromising an implied mid investment grade credit rating if it sought to raise a long-term loan of that size. Any credit is strictly conditional on prompt pay-back through the share issue, they say.

The issue will be aimed at institutional investors around the world and at private investors in the Netherlands, Germany and the United States. ABN AMRO Rothschild, Gold-

man Sachs International and Schroder Salomon Smith Barney will act as joint global coordinators.

FRESH SPANISH TALKS?

News that the state is cutting its stake could pave the way for fresh merger talks with Spain's Telefonica.

KPN has said it remains open to any possible deal with Spain's former state-owned telecoms giant. But it has also noted that time is moving on.

Since May, it has signed up two new allies—Japanese cellphone giant NTT DoCoMo and Hong Kong conglomerate Hutchison Whampoa, making the accommodation of a Spanish deal increasingly complex.

Nevertheless the aborted Spanish merger talks were partly blamed on the fact that Telefonica's Chairman Juan Villalonga had fallen out with his former schoolmate, Spanish Prime Minister Jose Maria Aznar, as well as with key shareholders.

But Villalonga is now under mounting pressure from core investors to resign amid a stock market probe into allegations that he violated insider trading rules.

It remains uncertain whether any successor can be found with the ambition and experience to run a Spanish/Dutch venture.

(Additional reporting by Tessa Walsh.)

Mr. HOLLINGS. Mr. President:

The Dutch Government may slash its 43.5 percent stake in Dutch carrier KPN Telecom to just over 20 percent as part of a global share issue slated for the fourth quarter, an industry source said on Wednesday.

If a foreign government owns more than 25 percent of the telephone company, they are not welcome. If they own less than 25 percent, they are welcome. We love the Germans. Tell them to come to America.

One addendum. This won't take but a couple of minutes because the distinguished chairman of the Budget Committee is on the floor. I hold the earlier announcement from a newspaper this week that the surplus forecast has doubled. We heard the distinguished Senator, Mr. ROTH of Delaware, the chairman of the Senate Finance Committee, putting through his budget. We had a vote this morning on the marriage penalty. Tax cut, tax cut, tax cut. To this Senator who lives in the real world, that is an increase in the debt.

When they announced this, I went to what they call the Budget and Economic Outlook of the Congressional Budget Office. That is what the article quoted that said the surplus doubled. On page 17, we can see the debt, as reported by the CBO, goes from \$5.617 trillion to \$6.370 trillion, an increase of \$753 billion.

It wasn't there that they found the surplus. I said, the President is always good at finding surpluses, so I went to his Mid-session Review, table 23 on page 49 in the back, and I see instead that the debt increased \$1 trillion.

Then I called Treasury and I asked them. I have now the most recent report from this morning. It shows the public debt to the penny. It has increased \$22 billion according to the U.S. Treasury.

I reiterate the Budget Committee's wonderful offer: If you want to become a millionaire—and I am sure the distinguished chairman can find that million

in the surplus; I have heard him mention it, also—we will give \$1 million to anyone who can find a real surplus that Congress and all the media are talking about.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I wonder if I might ask Senator HOLLINGS a question. I was listening to the remarks about telecommunications, and I was very impressed.

Am I to understand that we have a regulated, governmentally-owned company that wants to buy into a deregulated market which we have created?

Mr. HOLLINGS. The Senator's question concludes—as astute as our distinguished chairman is—the answer. It is that Deutsche Telekom is government regulated and controlled. That is the best answer. We were trying to continue the competition, but we cannot compete with the government coming in. If they are going to allow that, I vote under your budget and mine that we go over there and take over China's communications. If we can take over China's communications, we can cut the defense budget in half. They wouldn't know where to go or how to do it. We would be in charge over there in Beijing.

I thank the distinguished chairman.

Mr. DOMENICI. Senator, I don't agree on whether we have a surplus or not, and I listened attentively to that discussion, too, but I actually think you are raising a very good point in telecommunications. I voted for the telecommunications reform, but one of the big strengths, we were deregulating the industry.

Mr. HOLLINGS. That has caused part of the economic boom we are enjoying at this particular time. All this stirring of investment and expansion and services and competition is a wonderful dynamic that we all enjoy. Let's keep it going.

Mr. DOMENICI. It seems to me the question we have to ask is, Do we want a deregulated market that is working very, very well?

Mr. HOLLINGS. In this particular company, Deutsche Telekom, one-third of the employees have permanent employment. Wouldn't you and I love that—permanent employment?

Mr. DOMENICI. I have been here 28 years. It is almost that.

Mr. HOLLINGS. I have been here 34 years just about, and I am still the junior Senator. And Senator THURMOND said, "Get used to it."

Mr. DOMENICI. On this one subject, I have great respect for you and consider you a friend. I hope you are my friend.

Mr. HOLLINGS. You are my best friend.

TAXES

Mr. DOMENICI. Mr. President, I want to lay before the Senate two propositions. One, using a normal conventional budget approach, I want to