

Union Calendar No. 314

103^D CONGRESS
2^D SESSION

H. R. 3636

[Report No. 103-560]

A BILL

To promote a national communications infrastructure to encourage deployment of advanced communications services through competition, and for other purposes.

JUNE 24, 1994

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 22, 1993

Mr. MARKEY (for himself, Mr. FIELDS of Texas, Mr. BOUCHER, Mr. OXLEY, Mr. HALL of Texas, Mr. MOORHEAD, Mr. BRYANT, Mr. BARTON of Texas, Mr. LEHMAN, Mr. HASTERT, Mr. RICHARDSON, Mr. GILLMOR, and Ms. SCHENK) introduced the following bill; which was referred to the Committee on Energy and Commerce

FEBRUARY 10, 1994

Additional sponsors: Mr. MOAKLEY, Mr. STUDDS, Mr. FRANK of Massachusetts, Mr. LEVY, Mr. MEEHAN, Mr. OLVER, Mr. FRANKS of Connecticut, Mr. MACHTLEY, Mr. BLUTE, and Mr. MCHUGH

JUNE 24, 1994

Additional sponsors: Mr. LAFALCE, Mr. QUINN, Mr. BOEHLERT, Mr. NADLER, Mr. SWETT, Mr. PAXON, Mr. TORKILDSEN, Mr. LAZIO, Mr. ENGEL, Mrs. LOWEY, Mr. SOLOMON, Mr. KING, Ms. MOLINARI, Mr. NEAL of Massachusetts, Mr. OWENS, Mr. KENNEDY, Mr. SHAYS, Mr. TAUZIN, Mr. SCHAEFER, Mr. YATES, and Mr. QUILLEN

JUNE 24, 1994

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on November 22, 1993]

A BILL

To promote a national communications infrastructure to encourage deployment of advanced communications services through competition, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the “Na-*
 5 *tional Communications Competition and Information In-*
 6 *frastructure Act of 1994”.*

7 (b) *TABLE OF CONTENTS.*—

Sec. 1. Short title; table of contents.

*TITLE I—TELECOMMUNICATIONS INFRASTRUCTURE AND
 COMPETITION*

Sec. 101. Policy; definitions.

Sec. 102. Equal access and network functionality and quality.

Sec. 103. Telecommunications services for educational institutions, health care in-
stitutions, and libraries.

Sec. 104. Discriminatory interconnection.

Sec. 105. Expedited licensing of new technologies and services.

Sec. 106. New or extended lines.

Sec. 107. Pole attachments.

Sec. 108. Inquiry on civic participation.

Sec. 109. Competition by small business and minority-owned business concerns.

TITLE II—COMMUNICATIONS COMPETITIVENESS

Sec. 201. Cable service provided by telephone companies.

Sec. 202. Review of broadcasters ownership restrictions.

Sec. 203. Review of statutory ownership restriction.

Sec. 204. Broadcaster spectrum flexibility.

Sec. 205. Interactive services and critical interfaces.

Sec. 206. Video programming accessibility.

Sec. 207. Public access.

Sec. 208. Automated ship distress and safety systems.

Sec. 209. Cable technical standards review.

Sec. 210. Exclusive Federal jurisdiction over direct broadcast satellite service.

*TITLE III—PROCUREMENT PRACTICES OF TELECOMMUNICATIONS
 PROVIDERS*

Sec. 301. Findings.

Sec. 302. Purposes.

Sec. 303. Annual plan submission.

Sec. 304. Sanctions and remedies.

Sec. 305. Definitions.

TITLE IV—FEDERAL COMMUNICATIONS COMMISSION RESOURCES

Sec. 401. Authorization of appropriations.

1 ***TITLE I—TELECOMMUNICATIONS***
 2 ***INFRASTRUCTURE AND COM-***
 3 ***PETITION***

4 ***SEC. 101. POLICY; DEFINITIONS.***

5 *(a) POLICY.—Section 1 of the Communications Act of*
 6 *1934 (47 U.S.C. 151) is amended—*

7 *(1) by inserting “(a)” after “SECTION 1.”; and*

8 *(2) by adding at the end thereof the following*

9 *new subsection:*

10 *“(b) The purposes described in subsection (a), as they*
 11 *relate to common carrier services, include—*

12 *“(1) to preserve and enhance universal tele-*
 13 *communications service at just and reasonable rates;*

14 *“(2) to encourage the continued development and*
 15 *deployment of advanced and reliable capabilities and*
 16 *services in telecommunications networks;*

17 *“(3) to make available, so far as possible, to all*
 18 *the people of the United States, regardless of location*
 19 *or disability, a switched, broadband telecommuni-*
 20 *cations network capable of enabling users to originate*
 21 *and receive affordable high quality voice, data, graph-*
 22 *ics, and video telecommunications services;*

1 “(4) to ensure that the costs of such networks and
2 services are allocated equitably among users and are
3 constrained by competition whenever possible;

4 “(5) to ensure a seamless and open nationwide
5 telecommunications network through joint planning,
6 coordination, and service arrangements between and
7 among carriers; and

8 “(6) to ensure that common carriers’ networks
9 function at a high standard of quality in delivering
10 advances in network capabilities and services.”.

11 (b) *DEFINITIONS.*—Section 3 of such Act (47 U.S.C.
12 153) is amended—

13 (1) in subsection (r)—

14 (A) by inserting “(A)” after “means”; and

15 (B) by inserting before the period at the end
16 the following: “, or (B) service provided through
17 a system of switches, transmission equipment, or
18 other facilities (or combination thereof) by which
19 a subscriber can originate and terminate a tele-
20 communications service within a State but
21 which does not result in the subscriber incurring
22 a telephone toll charge”; and

23 (2) by adding at the end thereof the following:

24 “(gg) ‘Information service’ means the offering of a ca-
25 pability for generating, acquiring, storing, transforming,

1 *processing, retrieving, utilizing, or making available infor-*
2 *mation via telecommunications, and includes electronic*
3 *publishing, but does not include any use of any such capa-*
4 *bility for the management, control, or operation of a tele-*
5 *communications system or the management of a tele-*
6 *communications service.*

7 “(hh) ‘Equal access’ means to afford, to any person
8 seeking to provide an information service or a telecommuni-
9 cations service, reasonable and nondiscriminatory access on
10 an unbundled basis—

11 “(1) to databases, signaling systems, poles, ducts,
12 conduits, and rights-of-way owned or controlled by a
13 local exchange carrier, or other facilities, functions, or
14 information (including subscriber numbers) integral
15 to the efficient transmission, routing, or other provi-
16 sion of telephone exchange services or telephone ex-
17 change access services;

18 “(2) that is at least equal in type, quality, and
19 price to the access which the carrier affords to itself
20 or to any other person; and

21 “(3) that is sufficient to ensure the full inter-
22 operability of the equipment and facilities of the car-
23 rier and of the person seeking such access.

24 “(ii) ‘Open platform service’ means a switched, end-
25 to-end digital telecommunications service that is subject to

1 *title II of this Act, and that (1) provides subscribers with*
2 *sufficient network capability to access multimedia informa-*
3 *tion services, (2) is widely available throughout a State,*
4 *(3) is provided based on industry standards, and (4) is*
5 *available to all subscribers on a single line basis upon rea-*
6 *sonable request.*

7 “(jj) ‘Local exchange carrier’ means any person that
8 *is engaged in the provision of telephone exchange service*
9 *or telephone exchange access service. Such term does not in-*
10 *clude a person insofar as such person is engaged in the pro-*
11 *vision of a commercial mobile service under section 332(c),*
12 *except to the extent that the Commission finds that such*
13 *service as provided by such person in a State is a replace-*
14 *ment for a substantial portion of the wireline telephone ex-*
15 *change service within such State.*

16 “(kk) ‘Telephone exchange access service’ means the of-
17 *fering of telephone exchange services or facilities for the pur-*
18 *pose of the origination or termination of interexchange tele-*
19 *communications services to or from an exchange area.*

20 “(ll) ‘Telecommunications’ means the transmission, be-
21 *tween or among points specified by the subscriber, of infor-*
22 *mation of the subscriber’s choosing, without change in the*
23 *form or content of the information as sent and received,*
24 *by means of an electromagnetic transmission medium, in-*
25 *cluding all instrumentalities, facilities, apparatus, and*

1 *services (including the collection, storage, forwarding,*
2 *switching, and delivery of such information) essential to*
3 *such transmission.*

4 “(mm) ‘Telecommunications service’ means the offer-
5 ing, on a common carrier basis, of telecommunications fa-
6 cilities, or of telecommunications by means of such facili-
7 ties. Such term does not include an information service.”.

8 **SEC. 102. EQUAL ACCESS AND NETWORK FUNCTIONALITY**
9 **AND QUALITY.**

10 (a) *AMENDMENT.*—Section 201 of the Communications
11 Act of 1934 (47 U.S.C. 201) is amended by adding at the
12 end thereof the following new subsections:

13 “(c) *EQUAL ACCESS.*—

14 “(1) *OPENNESS AND ACCESSIBILITY OBLIGA-*
15 *TIONS.*—

16 “(A) *COMMON CARRIER OBLIGATIONS.*—The
17 duty of a common carrier under subsection (a)
18 to furnish communications service includes the
19 duty to interconnect with the facilities and
20 equipment of other providers of telecommuni-
21 cations services and information services in ac-
22 cordance with such regulations as the Commis-
23 sion may prescribe as necessary or desirable in
24 the public interest with respect to the openness
25 and accessibility of common carrier networks.

1 “(B) *ADDITIONAL OBLIGATIONS OF LOCAL*
2 *EXCHANGE CARRIERS.*—*The duty under sub-*
3 *section (a) of a local exchange carrier includes*
4 *the duty—*

5 “(i) *to provide, in accordance with the*
6 *regulations prescribed under paragraph (2),*
7 *equal access to and interconnection with the*
8 *facilities of the carrier’s networks to any*
9 *other carrier or person providing tele-*
10 *communications services or information*
11 *services reasonably requesting such equal*
12 *access and interconnection, so that such net-*
13 *works are fully interoperable with such tele-*
14 *communications services and information*
15 *services; and*

16 “(ii) *to offer unbundled features, func-*
17 *tions, and capabilities whenever technically*
18 *feasible and economically reasonable, in ac-*
19 *cordance with requirements prescribed by*
20 *the Commission pursuant to this subsection*
21 *and other laws.*

22 “(2) *EQUAL ACCESS AND INTERCONNECTION*
23 *REGULATIONS.*—

24 “(A) *REGULATIONS REQUIRED.*—*Within 1*
25 *year after the date of enactment of this sub-*

1 *section, the Commission shall establish regula-*
2 *tions that require reasonable and nondiscrim-*
3 *inatory equal access to and interconnection with*
4 *the facilities of a local exchange carrier's network*
5 *at any technically feasible and economically rea-*
6 *sonable point within the carrier's network on*
7 *reasonable terms and conditions, to any other*
8 *carrier or person offering telecommunications*
9 *services requesting such access. The Commission*
10 *shall establish such regulations after consultation*
11 *with the Joint Board established pursuant to*
12 *subparagraph (D). Such regulations shall pro-*
13 *vide for actual collocation of equipment nec-*
14 *essary for interconnection for telecommuni-*
15 *cations services at the premises of a local ex-*
16 *change carrier, except that the regulations shall*
17 *provide for virtual collocation where the local ex-*
18 *change carrier demonstrates that actual colloca-*
19 *tion is not practical for technical reasons or be-*
20 *cause of space limitations.*

21 “(B) *COMPENSATION.*—*Within 1 year after*
22 *the date of enactment of this subsection, the Com-*
23 *mission shall establish regulations requiring just*
24 *and reasonable compensation to the exchange*
25 *carrier providing such equal access and inter-*

1 *connection pursuant to subparagraph (A). Such*
2 *regulations shall include regulations to require*
3 *the carrier, to the extent it provides a tele-*
4 *communications service or an information serv-*
5 *ice, to impute such access and interconnection*
6 *charges to itself as the Commission determines*
7 *are reasonable and nondiscriminatory.*

8 “(C) *EXEMPTIONS AND MODIFICATIONS.—*
9 *Notwithstanding paragraph (1) or subparagraph*
10 *(A) of this paragraph, a rural telephone com-*
11 *pany shall not be required to provide equal ac-*
12 *cess and interconnection to another local ex-*
13 *change carrier. The Commission shall not apply*
14 *the requirements of this paragraph or impose re-*
15 *quirements pursuant to paragraph (1)(B)(ii) to*
16 *any rural telephone company, except to the ex-*
17 *tent that the Commission determines that com-*
18 *pliance with such requirements would not be un-*
19 *duly economically burdensome, unfairly competi-*
20 *tive, technologically infeasible, or otherwise not*
21 *in the public interest. The Commission may*
22 *modify the requirements of this paragraph for*
23 *any other local exchange carrier that has, in the*
24 *aggregate nationwide, fewer than 500,000 access*
25 *lines installed, to the extent that the Commission*

1 *determines that compliance with such require-*
2 *ments (without such modification) would be un-*
3 *duly economically burdensome, technologically*
4 *infeasible, or otherwise not in the public interest.*
5 *The Commission may include, in the regulations*
6 *prescribed pursuant to paragraph (1)(B), modi-*
7 *fied requirements for any feature, function, or*
8 *capability that the Commission determines is*
9 *generally available to competing providers of*
10 *telecommunications services or information serv-*
11 *ices at the same or better price, terms, and con-*
12 *ditions.*

13 *“(D) JOINT BOARD ON EQUAL ACCESS AND*
14 *INTERCONNECTION STANDARDS.—Within 30 days*
15 *after the date of enactment of this subsection, the*
16 *Commission shall convene a Federal-State Joint*
17 *Board under section 410(c) for the purpose of*
18 *preparing a recommended decision for the Com-*
19 *mission with respect to the equal access and*
20 *interconnection regulations required by this*
21 *paragraph.*

22 *“(E) ENFORCEMENT OF EXISTING REGULA-*
23 *TIONS.—Nothing in this section shall be con-*
24 *strued to prohibit the Commission from enforc-*
25 *ing regulations prescribed prior to the date of en-*

1 *actment of this subsection in fulfilling the re-*
2 *quirements of this subsection to the extent that*
3 *such regulations are consistent with the provi-*
4 *sions of this subsection.*

5 “(F) *DEFINITION OF RURAL TELEPHONE*
6 *COMPANY.—For the purpose of subparagraph (C)*
7 *of this paragraph, the term ‘rural telephone com-*
8 *pany’ means a local exchange carrier operating*
9 *entity to the extent that such entity—*

10 “(i) *provides common carrier service to*
11 *any local exchange carrier study area that*
12 *does not include either—*

13 “(I) *any incorporated place of*
14 *10,000 inhabitants or more, or any*
15 *part thereof, based on the most recent*
16 *available population statistics of the*
17 *Bureau of the Census; or*

18 “(II) *any territory, incorporated*
19 *or unincorporated, included in an ur-*
20 *banized area, as defined by the Bureau*
21 *of the Census as of August 10, 1993;*

22 “(ii) *provides telephone exchange serv-*
23 *ice, including telephone exchange access*
24 *service, to fewer than 50,000 access lines; or*

1 “(iii) provides telephone exchange serv-
2 ice to any local exchange carrier study area
3 with fewer than 100,000 access lines.

4 “(3) *PREEMPTION.*—

5 “(A) *LIMITATION.*—Notwithstanding section
6 2(b), no State or local government may, after one
7 year after the date of enactment of this sub-
8 section—

9 “(i) effectively prohibit any person or
10 carrier from providing any interstate or
11 intrastate telecommunications service or in-
12 formation service, or impose any restriction
13 or condition on entry into the business of
14 providing any such service;

15 “(ii) prohibit any carrier or other per-
16 son providing interstate or intrastate tele-
17 communications services or information
18 services from exercising the access and
19 interconnection rights provided under this
20 subsection; or

21 “(iii) impose any limitation on the ex-
22 ercise of such rights.

23 “(B) *PERMITTED TERMS AND CONDI-*
24 *TIONS.*—Subparagraph (A) shall not be con-
25 strued to prohibit a State from imposing a term

1 *or condition on providers of telecommunications*
2 *services or information services if such term or*
3 *condition is not inconsistent with subparagraph*
4 *(A) and is necessary and appropriate to—*

5 *“(i) protect public safety and welfare;*

6 *“(ii) ensure the continued quality of*
7 *intrastate telecommunications;*

8 *“(iii) ensure that rates for intrastate*
9 *telecommunications services are just and*
10 *reasonable; or*

11 *“(iv) ensure that the provider’s busi-*
12 *ness practices are consistent with consumer*
13 *protection laws and regulations.*

14 *“(C) EXCEPTION.—In the case of commer-*
15 *cial mobile services, the provisions of section*
16 *332(c)(3) shall apply in lieu of the provisions of*
17 *this paragraph.*

18 *“(D) PARITY OF FRANCHISE AND OTHER*
19 *CHARGES.—Notwithstanding section 2(b), no*
20 *local government may, after 1 year after the date*
21 *of enactment of this subsection, impose or collect*
22 *any franchise, license, permit, or right-of-way fee*
23 *or any assessment, rental, or any other charge or*
24 *equivalent thereof as a condition for operating in*
25 *the locality or for obtaining access to, occupying,*

1 *or crossing public rights-of-way from any pro-*
2 *vider of telecommunications services that distin-*
3 *guishes between or among providers of tele-*
4 *communications services, including the local ex-*
5 *change carrier. For purposes of this subsection,*
6 *a franchise, license, permit, or right-of-way fee*
7 *or an assessment, rental, or any other charge or*
8 *equivalent thereof does not include any imposi-*
9 *tion of general applicability which does not dis-*
10 *tinguish between or among providers of tele-*
11 *communications services, or any tax.*

12 “(4) *TARIFFS.—*

13 “(A) *GENERALLY.—Within 18 months after*
14 *the date of enactment of this subsection, a local*
15 *exchange carrier shall prepare and file tariffs in*
16 *accordance with this Act with respect to the serv-*
17 *ices or elements offered to comply with the equal*
18 *access and interconnection regulations required*
19 *under this subsection. The costs that a carrier*
20 *incurs in providing such services or elements*
21 *shall be borne solely by the users of the features*
22 *and functions comprising such services or ele-*
23 *ments or of the feature or function that uses or*
24 *includes such services or elements. The Commis-*
25 *sion shall review such tariffs to ensure that—*

1 “(i) the charges for such services or ele-
2 ments are cost-based; and

3 “(ii) the terms and conditions con-
4 tained in such tariffs unbundle any sepa-
5 rable services, elements, features, or func-
6 tions in accordance with paragraph
7 (1)(B)(ii) and any regulations thereunder.

8 “(B) *SUPPORTING INFORMATION.*—A local
9 exchange carrier shall submit supporting infor-
10 mation with its tariffs for equal access and
11 interconnection that is sufficient to enable the
12 Commission and the public to determine the re-
13 lationship between the proposed charges and the
14 costs of providing such services or elements. The
15 submission of such information shall be pursuant
16 to regulations adopted by the Commission to en-
17 sure that similarly situated carriers provide such
18 information in a uniform fashion.

19 “(5) *PRICING FLEXIBILITY.*—

20 “(A) *ESTABLISHMENT OF CRITERIA.*—With-
21 in 270 days after the date of enactment of this
22 subsection, the Commission, by regulation, shall
23 establish criteria for determining—

24 “(i) whether a telecommunications
25 service or provider of such service has be-

1 *come, or is substantially certain to become,*
2 *subject to competition, either within a geo-*
3 *graphic area or within a class or category*
4 *of service;*

5 “(ii) *whether such competition will ef-*
6 *fectively prevent rates for such service that*
7 *are unjust or unreasonable or that are un-*
8 *justly or unreasonably discriminatory; and*

9 “(iii) *appropriate flexible pricing pro-*
10 *cedures that can be used in lieu of the filing*
11 *of tariff schedules, or in lieu of other pric-*
12 *ing procedures established by the Commis-*
13 *sion, and that are consistent with the pro-*
14 *tection of subscribers and the public inter-*
15 *est, convenience, and necessity.*

16 “(B) *DETERMINATIONS.—The Commission,*
17 *with respect to rates for interstate or foreign*
18 *communications, and State commissions, with*
19 *respect to rates for intrastate communications,*
20 *shall, upon application—*

21 “(i) *render determinations in accord-*
22 *ance with the criteria established under*
23 *clauses (i) and (ii) of subparagraph (A)*
24 *concerning the services or providers that are*
25 *the subject of such application; and*

1 “(ii) upon a proper showing, establish
2 appropriate flexible pricing procedures con-
3 sistent with the criteria established under
4 clause (iii) of such subparagraph.

5 The Commission shall approve or reject any such
6 application within 180 days after the date of its
7 submission.

8 “(C) *EXCEPTION.*—In the case of commer-
9 cial mobile services, the provisions of section
10 332(c)(1) shall apply in lieu of the provisions of
11 this paragraph.

12 “(6) *JOINT BOARD TO PRESERVE UNIVERSAL*
13 *SERVICE.*—

14 “(A) *ESTABLISHMENT; FUNCTIONS.*—With-
15 in 30 days after the date of enactment of this
16 subsection, the Commission shall convene a Fed-
17 eral-State Joint Board under section 410(c) for
18 the purpose of recommending actions to the Com-
19 mission and State commissions for the preserva-
20 tion of universal service. As a part of preparing
21 such recommendations, the Joint Board shall
22 survey providers and users of telephone exchange
23 service and consult with State commissions in
24 order to determine the pecuniary difference be-
25 tween the cost of providing universal service and

1 *the prices determined to be appropriate for such*
2 *service.*

3 “(B) *PRINCIPLES.—The Joint Board shall*
4 *base policies for the preservation of universal*
5 *service on the following principles:*

6 “(i) *A plan adopted by the Commis-*
7 *sion and the States should ensure the con-*
8 *tinued viability of universal service by*
9 *maintaining quality services at just and*
10 *reasonable rates.*

11 “(ii) *Such plan should define the na-*
12 *ture and extent of the services encompassed*
13 *within carriers’ universal service obliga-*
14 *tions. Such plan should seek to promote ac-*
15 *cess to advanced telecommunications serv-*
16 *ices and capabilities, including open plat-*
17 *form service, for all Americans by including*
18 *access to advanced telecommunications serv-*
19 *ices and capabilities in the definition of*
20 *universal service while maintaining just*
21 *and reasonable rates. Such plan should en-*
22 *sure reasonably comparable services for the*
23 *general public in urban and rural areas.*

24 “(iii) *Such plan should establish spe-*
25 *cific and predictable mechanisms to provide*

1 *adequate and sustainable support for uni-*
2 *versal service.*

3 “(iv) *All providers of telecommuni-*
4 *cations services should make an equitable*
5 *and nondiscriminatory contribution to*
6 *preservation of universal service.*

7 “(v) *Such plan should permit residen-*
8 *tial subscribers to continue to receive only*
9 *basic voice-grade local telephone service,*
10 *equivalent to the service generally available*
11 *to residential subscribers on the date of en-*
12 *actment of this subsection, at just, reason-*
13 *able, and affordable rates. Determinations*
14 *concerning the affordability of rates for such*
15 *services shall take into account the rates*
16 *generally available to residential subscribers*
17 *on such date of enactment and the pricing*
18 *rules established by the States. If the plan*
19 *would result in any increases in the rates*
20 *for such services for residential subscribers*
21 *that are not attributable to changes in*
22 *consumer prices generally, such plan shall*
23 *include a requirement that a rate increase*
24 *shall be permitted in any proceeding com-*
25 *menced after March 16, 1994, only upon a*

1 *showing that such increase is necessary to*
2 *prevent competitive disadvantages for one*
3 *or more service providers and is in the pub-*
4 *lic interest. Such plan should provide that*
5 *any such increase in rates shall be mini-*
6 *mized to the greatest extent practical and*
7 *shall be implemented over a time period of*
8 *not less than 5 years.*

9 “(vi) *To the extent that a common car-*
10 *rier establishes advanced telecommuni-*
11 *cations services, such plan should include*
12 *provisions to promote public access to ad-*
13 *vanced telecommunications services, other*
14 *than a video platform, at a preferential rate*
15 *that will recover only the added costs of pro-*
16 *viding such service, for educational, library,*
17 *public broadcast, and other tax-exempt in-*
18 *stitutions, and governmental entities, both*
19 *as producers and users of services as soon as*
20 *technically feasible and economically rea-*
21 *sonable. Such preferential rates should only*
22 *be made available to such institutions and*
23 *entities for the purpose of providing non-*
24 *commercial information services or tele-*
25 *communications services to the general pub-*

1 *lic and not for the internal telecommuni-*
2 *cations needs or commercial use of such in-*
3 *stitutions and entities.*

4 *“(vii) Such plan should determine and*
5 *establish mechanisms to ensure that rates*
6 *charged by a provider of interexchange tele-*
7 *communications services for services in*
8 *rural areas are maintained at levels no*
9 *higher than those charged by the same car-*
10 *rier to subscribers in urban areas.*

11 *“(viii) Such plan should, notwith-*
12 *standing any other provision of law, require*
13 *common carriers serving more than*
14 *1,800,000 access lines in the aggregate na-*
15 *tionwide, to be subject to alternative or*
16 *price regulation, and not cost-based rate-of-*
17 *return regulation, for services that are sub-*
18 *ject to the jurisdiction of the Commission or*
19 *the States, as applicable, when such car-*
20 *rier’s network has been made open to com-*
21 *petition as a result of its implementation of*
22 *the equal access, interconnection, and acces-*
23 *sibility provisions of this subsection.*

24 *“(ix) Such other principles as the*
25 *Board determines are necessary and appro-*

1 *priate for the protection of the public inter-*
2 *est, convenience, and necessity and consist-*
3 *ent with the purposes of this Act.*

4 *“(C) DEFINITION OF UNIVERSAL SERVICE;*
5 *ACCESS TO ADVANCED SERVICES.—In defining*
6 *the nature and extent of the services encompassed*
7 *within carriers’ universal service obligations*
8 *under subparagraph (B)(ii), the Joint Board*
9 *shall consider the extent to which—*

10 *“(i) a telecommunications service has,*
11 *through the operation of market choices by*
12 *customers, been subscribed to by a substan-*
13 *tial majority of residential customers;*

14 *“(ii) denial of access to such service to*
15 *any individual would unfairly deny that*
16 *individual educational and economic oppor-*
17 *tunities;*

18 *“(iii) such service has been deployed in*
19 *the public switched telecommunications net-*
20 *work; and*

21 *“(iv) inclusion of such service within*
22 *carriers’ universal service obligations is oth-*
23 *erwise consistent with the public interest,*
24 *convenience, and necessity.*

1 *The Joint Board may, from time to time, rec-*
2 *ommend to the Commission modifications in the*
3 *definition proposed under subparagraph (B).*

4 “(D) *REPORT; COMMISSION RESPONSE.—*
5 *The Joint Board convened pursuant to subpara-*
6 *graph (A) shall report its recommendations with-*
7 *in 270 days after the date of enactment of this*
8 *subsection. The Commission shall complete any*
9 *proceeding to act upon such recommendations*
10 *within one year after such date of enactment. A*
11 *State may adopt regulations to implement the*
12 *Joint Board’s recommendations, except that such*
13 *regulations shall not, after 18 months after such*
14 *date of enactment, be inconsistent with regula-*
15 *tions prescribed by the Commission to implement*
16 *such recommendations.*

17 “(7) *CROSS SUBSIDIES PROHIBITION.—The Com-*
18 *mission shall—*

19 “(A) *prescribe regulations to prohibit a*
20 *common carrier from engaging in any practice*
21 *that results in the inclusion in rates for tele-*
22 *phone exchange service or telephone exchange ac-*
23 *cess service of any operating expenses, costs, de-*
24 *preciation charges, capital investments, or other*
25 *expenses directly associated with the provision of*

1 *competing telecommunications services, informa-*
2 *tion services, or video programming services by*
3 *the common carrier or affiliate; and*

4 “(B) *ensure such competing telecommuni-*
5 *cations services, information services or video*
6 *programming services bear a reasonable share of*
7 *the joint and common costs of facilities used to*
8 *provide telephone exchange service or telephone*
9 *exchange access service and competing tele-*
10 *communications services, information services, or*
11 *video programming services.*

12 “(8) *RESALE.—The resale or sharing of tele-*
13 *phone exchange service (or unbundled services, ele-*
14 *ments, features, or functions of such service) in con-*
15 *junction with the furnishing of a telecommunications*
16 *service or any information service shall not be prohib-*
17 *ited nor subject to unreasonable conditions by the car-*
18 *rier, the Commission, or any State.*

19 “(9) *TELECOMMUNICATIONS NUMBER PORT-*
20 *ABILITY.—The Commission shall prescribe regulations*
21 *to ensure that—*

22 “(A) *telecommunications number port-*
23 *ability shall be available, upon request, as soon*
24 *as technically feasible and economically reason-*
25 *able; and*

1 “(B) an impartial entity shall administer
2 telecommunications numbering and make such
3 numbers available on an equitable basis.

4 *The Commission shall have exclusive jurisdiction over*
5 *those portions of the North American Numbering Plan*
6 *that pertain to the United States. For the purpose of*
7 *this paragraph, the term ‘telecommunications number*
8 *portability’ means the ability of users of telecommuni-*
9 *cations services to retain existing telecommunications*
10 *numbers without impairment of quality, reliability,*
11 *or convenience when switching from one provider of*
12 *telecommunications services to another.*

13 “(10) REVIEW OF STANDARDS AND REQUIRE-
14 MENTS.—At least once every three years, the Commis-
15 sion shall—

16 “(A) conduct a proceeding in which inter-
17 ested parties shall have an opportunity to com-
18 ment on whether the standards and requirements
19 established by or under this subsection have
20 opened the networks of carriers to reasonable and
21 nondiscriminatory access by providers of tele-
22 communications services and information serv-
23 ices;

24 “(B) review the definition of, and the ade-
25 quacy of support for, universal service, and

1 *evaluate the extent to which universal service has*
2 *been protected and access to advanced services*
3 *has been facilitated pursuant to this subsection*
4 *and the plans and regulations thereunder; and*

5 *“(C) submit to the Congress a report con-*
6 *taining a statement of the Commission’s findings*
7 *pursuant to such proceeding, and including an*
8 *identification of any defects or delays observed in*
9 *attaining the objectives of this subsection and a*
10 *plan for correcting such defects and delays.*

11 *“(11) STUDY OF RURAL PHONE SERVICE.—With-*
12 *in 1 year after the date of enactment of this sub-*
13 *section, the Commission shall initiate an inquiry to*
14 *examine the effects of competition in the provision of*
15 *telephone exchange access service and telephone ex-*
16 *change service on the availability and rates for tele-*
17 *phone exchange access service and telephone exchange*
18 *service furnished by rural exchange carriers.*

19 *“(d) NETWORK FUNCTIONALITY AND QUALITY.—*

20 *“(1) FUNCTIONALITY AND RELIABILITY OBLIGA-*
21 *TIONS.—The duty of a common carrier under sub-*
22 *section (a) to furnish communications service includes*
23 *the duty to furnish that service in accordance with*
24 *such regulations of functionality and reliability as the*

1 *Commission may prescribe as necessary or desirable*
2 *in the public interest pursuant to this subsection.*

3 “(2) *COORDINATED PLANNING FOR INTEROPER-*
4 *ABILITY AND OTHER PURPOSES.—The Commission*
5 *shall establish—*

6 “(A) *procedures for the conduct of coordi-*
7 *ated network planning by common carriers and*
8 *other providers of telecommunications services or*
9 *information services, subject to Commission su-*
10 *per vision, for the effective and efficient inter-*
11 *connection and interoperability of public and*
12 *private networks; and*

13 “(B) *procedures for Commission oversight of*
14 *the development by appropriate standards-set-*
15 *ting organizations of—*

16 “(i) *standards for the interconnection*
17 *and interoperability of such networks;*

18 “(ii) *standards that promote access to*
19 *network capabilities and services by indi-*
20 *viduals with disabilities; and*

21 “(iii) *standards that promote access to*
22 *information services by subscribers to tele-*
23 *phone exchange service furnished by a rural*
24 *telephone company (as such term is defined*
25 *in subsection (c)(2)(F)).*

1 “(3) *OPEN PLATFORM SERVICE.*—

2 “(A) *STUDY.*—*Within 90 days after the*
3 *date of enactment of this subsection, the Commis-*
4 *sion shall initiate an inquiry to consider the reg-*
5 *ulations and policies necessary to make open*
6 *platform service available to subscribers at rea-*
7 *sonable rates based on the reasonably identifiable*
8 *costs of providing such service, utilizing existing*
9 *facilities or new facilities with improved capa-*
10 *bility or efficiency. The inquiry required under*
11 *this paragraph shall be completed within 180*
12 *days after the date of its initiation.*

13 “(B) *REGULATIONS.*—*On the basis of the*
14 *results of the inquiry required under subpara-*
15 *graph (A), the Commission shall prescribe and*
16 *make effective such regulations as are necessary*
17 *to implement the inquiry’s conclusions. Such*
18 *regulations may require a local exchange carrier*
19 *to file, in the appropriate jurisdiction, tariffs for*
20 *the origination and termination of open plat-*
21 *form service as soon as such service is economi-*
22 *cally and technically feasible. In establishing*
23 *any such regulations, the Commission shall take*
24 *into account the proximate and long-term de-*
25 *ployment plans of local exchange carriers.*

1 “(C) *TEMPORARY WAIVER.*—*The Commis-*
2 *sion shall also establish a procedure to waive*
3 *temporarily specific provisions of the regulations*
4 *prescribed under this paragraph if a local ex-*
5 *change carrier demonstrates that compliance*
6 *with such requirement—*

7 “(i) *would be economically or tech-*
8 *nically infeasible, or*

9 “(ii) *would materially delay the de-*
10 *ployment of new facilities with improved*
11 *capabilities or efficiencies that will be used*
12 *to meet the requirements of open platform*
13 *services.*

14 *Such petitions shall be decided by the Commis-*
15 *sion within 180 days after the date of its submis-*
16 *sion.*

17 “(D) *COST ALLOCATION.*—*Any such regula-*
18 *tions shall provide for the allocation of all costs*
19 *of facilities jointly used to provide open platform*
20 *service and telephone exchange service or tele-*
21 *phone exchange access services.*

22 “(E) *STATE AUTHORITY.*—*Nothing in this*
23 *paragraph shall be construed to limit a State’s*
24 *authority to continue to regulate any services*
25 *subject to State jurisdiction under this Act.*

1 “(F) *CONTINUING OVERSIGHT.*—Commenc-
2 ing not later than 2 years after the date of enact-
3 ment of this subsection, the Commission shall
4 conduct an inquiry on the progress of open plat-
5 form service deployment. The Commission shall
6 submit a report to the Congress on the results of
7 such inquiry within 180 days after the com-
8 mencement of such inquiry and annually there-
9 after for the succeeding 5 years.

10 “(4) *ACCESSIBILITY REGULATIONS.*—

11 “(A) *REGULATIONS.*—Within 1 year after
12 the date of enactment of this section, the Com-
13 mission shall prescribe such regulations as are
14 necessary to ensure that advances in network
15 services deployed by local exchange carriers shall
16 be accessible and usable by individuals with dis-
17 abilities, including individuals with functional
18 limitations of hearing, vision, movement, manip-
19 ulation, speech, and interpretation of informa-
20 tion, unless the cost of making the services acces-
21 sible and usable would result in an undue bur-
22 den or adverse competitive impact. Such regula-
23 tions shall seek to permit the use of both stand-
24 ard and special equipment, and seek to minimize
25 the need of individuals to acquire additional de-

1 *vices beyond those used by the general public to*
2 *obtain such access. Throughout the process of de-*
3 *veloping such regulations, the Commission shall*
4 *coordinate and consult with representatives of*
5 *individuals with disabilities and interested*
6 *equipment and service providers to ensure their*
7 *concerns and interests are given full consider-*
8 *ation in such process.*

9 *“(B) COMPATIBILITY.—Such regulations*
10 *shall require that whenever an undue burden or*
11 *adverse competitive impact would result from the*
12 *requirements in subparagraph (A), the local ex-*
13 *change carrier that deploys the network service*
14 *shall ensure that the network service in question*
15 *is compatible with existing peripheral devices or*
16 *specialized customer premises equipment com-*
17 *monly used by persons with disabilities to*
18 *achieve access, unless doing so would result in an*
19 *undue burden or adverse competitive impact.*

20 *“(C) UNDUE BURDEN.—The term ‘undue*
21 *burden’ means significant difficulty or expense.*
22 *In determining whether the activity necessary to*
23 *comply with the requirements of this paragraph*
24 *would result in an undue burden, the factors to*
25 *be considered include the following:*

1 “(i) *The nature and cost of the activ-*
2 *ity.*

3 “(ii) *The impact on the operation of*
4 *the facility involved in the deployment of*
5 *the network service.*

6 “(iii) *The financial resources of the*
7 *local exchange carrier.*

8 “(iv) *The type of operations of the local*
9 *exchange carrier.*

10 “(D) *ADVERSE COMPETITIVE IMPACT.—In*
11 *determining whether the activity necessary to*
12 *comply with the requirements of this paragraph*
13 *would result in adverse competitive impact, the*
14 *following factors shall be considered:*

15 “(i) *Whether such activity would raise*
16 *the cost of the network service in question*
17 *beyond the level at which there would be*
18 *sufficient consumer demand by the general*
19 *population to make the network service*
20 *profitable.*

21 “(ii) *Whether such activity would, with*
22 *respect to the network service in question,*
23 *put the local exchange carrier at a competi-*
24 *tive disadvantage. This factor may be con-*
25 *sidered so long as competing network service*

1 *providers are not held to the same obliga-*
2 *tion with respect to access by persons with*
3 *disabilities.*

4 *“(E) REVIEW OF STANDARDS AND REQUIRE-*
5 *MENTS.—At least once every 3 years, the Com-*
6 *mission shall conduct a proceeding in which in-*
7 *terested parties shall have an opportunity to*
8 *comment on whether the regulations established*
9 *under this paragraph have ensured that ad-*
10 *vances in network services by providers of tele-*
11 *communications services and information serv-*
12 *ices are accessible and usable by individuals*
13 *with disabilities.*

14 *“(F) EFFECTIVE DATE.—The regulations re-*
15 *quired by this paragraph shall become effective*
16 *18 months after the date of enactment of this*
17 *subsection.*

18 *“(5) QUALITY RULES.—*

19 *“(A) MEASURES OR BENCHMARKS RE-*
20 *QUIRED.—The Commission shall designate or*
21 *otherwise establish network reliability and qual-*
22 *ity performance measures or benchmarks for*
23 *common carriers for the purpose of ensuring the*
24 *continued maintenance and evolution of common*
25 *carrier facilities and service. Not later than 180*

1 *days after the date of enactment of this sub-*
2 *section, the Commission shall initiate a rule-*
3 *making proceeding to establish such performance*
4 *measures or benchmarks.*

5 “(B) *CONTENTS OF REGULATIONS.*—*Such*
6 *regulations shall include—*

7 “(i) *quantitative network reliability*
8 *and service quality performance measures*
9 *or benchmarks;*

10 “(ii) *procedures to monitor and evalu-*
11 *ate common carrier efforts to increase net-*
12 *work reliability and service quality; and*

13 “(iii) *procedures to resolve network re-*
14 *liability and service quality complaints.*

15 “(C) *COORDINATION AND CONSULTATION.*—
16 *Throughout the process of developing network re-*
17 *liability and service quality performance meas-*
18 *ures or benchmarks, as required by subpara-*
19 *graphs (A) and (B), the Commission shall co-*
20 *ordinate and consult with service and equipment*
21 *providers and users and State regulatory bodies*
22 *to ensure their concerns and interests are given*
23 *full consideration in such process.*

24 “(6) *RURAL EXEMPTION.*—*The Commission may*
25 *modify, or grant exemptions from, the requirements of*

1 *this subsection in the case of a common carrier pro-*
2 *viding telecommunications services in a rural area.*

3 “(e) *INFRASTRUCTURE SHARING.*—

4 “(1) *REGULATIONS REQUIRED.*—*Within one year*
5 *after the date of enactment of this subsection, the*
6 *Commission shall prescribe regulations that require*
7 *local exchange carriers to make available to any*
8 *qualifying carrier such public switched telecommuni-*
9 *cations network technology and information and tele-*
10 *communications facilities and functions as may be re-*
11 *quested by such qualifying carrier for the purpose of*
12 *enabling that carrier to provide telecommunications*
13 *services, or to provide access to information services,*
14 *in the geographic area in which that carrier has re-*
15 *quested and obtained designation as the qualifying*
16 *carrier.*

17 “(2) *QUALIFYING CARRIERS.*—*For purposes of*
18 *paragraph (1), the term ‘qualifying carrier’ means a*
19 *local exchange carrier that—*

20 “(A) *lacks economies of scale or scope, as*
21 *determined in accordance with regulations pre-*
22 *scribed by the Commission pursuant to this sub-*
23 *section; and*

24 “(B) *is a common carrier which offers tele-*
25 *phone exchange service, telephone exchange access*

1 *service, and any other service that is within the*
2 *definition of universal service, to all customers*
3 *without preference throughout one or more ex-*
4 *change areas in existence on the date of enact-*
5 *ment of this subsection.*

6 “(3) *TERMS AND CONDITIONS OF REGULA-*
7 *TIONS.—The regulations prescribed by the Commis-*
8 *sion pursuant to this subsection—*

9 “(A) *shall not require any local exchange*
10 *carrier to take any action that is economically*
11 *unreasonable or that is contrary to the public in-*
12 *terest;*

13 “(B) *shall permit, but shall not require, the*
14 *joint ownership or operation of public switched*
15 *telecommunications network facilities, functions,*
16 *and services by or among the local exchange car-*
17 *rier and the qualifying carrier;*

18 “(C) *shall ensure that a local exchange car-*
19 *rier shall not be treated by the Commission or*
20 *any State commission as a common carrier for*
21 *hire, or as offering common carrier services, with*
22 *respect to any technology, information, facilities,*
23 *or functions made available to a qualifying car-*
24 *rier pursuant to this subsection;*

1 “(D) shall ensure that local exchange car-
2 riers make such technology, information, facili-
3 ties, or functions available to qualifying carriers
4 on fair and reasonable terms and conditions that
5 permit such qualifying carriers to fully benefit
6 from the economies of scale and scope of the pro-
7 viding local exchange carrier, as determined in
8 accordance with guidelines prescribed by the
9 Commission in such regulations;

10 “(E) shall establish conditions that promote
11 cooperation between local exchange carriers and
12 qualifying carriers; and

13 “(F) shall not require any local exchange
14 carrier to engage in any infrastructure sharing
15 agreement for any geographic area where such
16 carrier is required to provide services subject to
17 State regulation.

18 “(4) INFORMATION CONCERNING DEPLOYMENT OF
19 NEW SERVICES AND EQUIPMENT.—Any local exchange
20 carrier that has entered into an agreement with a
21 qualifying carrier under this subsection shall provide
22 to each party to such agreement timely information
23 on the planned deployment of telecommunications
24 services and equipment, including software integral to

1 *such telecommunications services and equipment, in-*
2 *cluding upgrades.”.*

3 **(b) PREEMPTION OF FRANCHISING AUTHORITY REGU-**
4 **LATION OF TELECOMMUNICATIONS SERVICES.—**

5 **(1) TELECOMMUNICATIONS SERVICES.—***Section*
6 *621(b) of the Communications Act of 1934 (47 U.S.C.*
7 *541(c)) is amended by adding at the end thereof the*
8 *following new paragraph:*

9 *“(3)(A) To the extent that a cable operator or affiliate*
10 *thereof is engaged in the provision of telecommunications*
11 *services—*

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

14 *“(ii) the provisions of this title shall not apply*
15 *to such cable operator or affiliate.*

16 *“(B) A franchising authority may not impose any re-*
17 *quirement that has the purpose or effect of prohibiting, lim-*
18 *iting, restricting, or conditioning the provision of a tele-*
19 *communications service by a cable operator or an affiliate*
20 *thereof.*

21 *“(C) A franchising authority may not order a cable*
22 *operator or affiliate thereof—*

23 *“(i) to discontinue the provision of a tele-*
24 *communications service, or*

1 **“SEC. 229. TELECOMMUNICATIONS SERVICES FOR EDU-**
2 **CATIONAL INSTITUTIONS, HEALTH CARE IN-**
3 **STITUTIONS, AND LIBRARIES.**

4 “(a) *PROMOTION OF DELIVERY OF ADVANCED SERV-*
5 *ICES.—In fulfillment of its obligation under section 1 to*
6 *make available to all the people of the United States a*
7 *rapid, efficient, nationwide, and worldwide communica-*
8 *tions service, the Commission shall promote the provision*
9 *of advanced telecommunications services by wire, wireless,*
10 *cable, and satellite technologies to—*

11 “(1) *educational institutions;*

12 “(2) *health care institutions; and*

13 “(3) *public libraries.*

14 “(b) *ANNUAL SURVEY REQUIRED.—The National Tele-*
15 *communications and Information Administration shall*
16 *conduct a nationwide survey of the availability of advanced*
17 *telecommunications services to educational institutions,*
18 *health care institutions, and public libraries. The Adminis-*
19 *tration shall complete the survey and release publicly the*
20 *results of such survey not later than one year after the date*
21 *of enactment of this section. The results of such survey shall*
22 *include—*

23 “(1) *the number of educational institutions and*
24 *classrooms, health care institutions, and public li-*
25 *braries;*

1 “(2) the number of educational institutions and
2 classrooms, health care institutions, and public li-
3 braries that have access to advanced telecommuni-
4 cations services; and

5 “(3) the nature of the telecommunications facili-
6 ties through which such educational institutions,
7 health care institutions, and public libraries obtain
8 access to advanced telecommunications services.

9 *The National Telecommunications and Information Ad-*
10 *ministration shall update annually the survey required by*
11 *this section. The survey required under this subsection shall*
12 *be prepared in consultation with the Department of Edu-*
13 *cation, Department of Health and Human Services, and*
14 *such other Federal, State, and local departments, agencies,*
15 *and authorities that may maintain or have access to infor-*
16 *mation concerning the availability of advanced tele-*
17 *communications services to educational institutions, health*
18 *care institutions, and libraries.*

19 “(c) *RULEMAKING REQUIRED.*—*Within one year after*
20 *the date of enactment of this section, the Commission shall*
21 *issue a notice of proposed rulemaking for the purpose of*
22 *adopting regulations that—*

23 “(1) *enhance, to the extent technically feasible*
24 *and economically reasonable, the availability of ad-*
25 *vanced telecommunications services to all educational*

1 *institutions and classrooms, health care institutions,*
2 *and public libraries by the year 2000;*

3 “(2) ensure that appropriate functional require-
4 ments or performance standards, or both, including
5 interoperability standards, are established for tele-
6 communications systems or facilities that interconnect
7 educational institutions, health care institutions, and
8 public libraries with the public switched telecommuni-
9 cations network;

10 “(3) define the circumstances under which a car-
11 rier may be required to interconnect its telecommuni-
12 cations network with educational institutions, health
13 care institutions, and public libraries;

14 “(4) provide for either the establishment of pref-
15 erential rates for telecommunications services, includ-
16 ing advanced services, that are provided to edu-
17 cational institutions, health care institutions, and
18 public libraries, or the use of alternative mechanisms
19 to enhance the availability of advanced services to
20 these institutions; and

21 “(5) address such other related matters as the
22 Commission may determine.

23 “(d) *FEASIBILITY STUDY.*—The Commission shall as-
24 sess the feasibility of including postsecondary educational

1 *institutions in any regulations promulgated under this sec-*
2 *tion.*

3 “(e) *DEFINITIONS.*—*For purposes of this section—*

4 “(1) *the term ‘educational institutions’ means el-*
5 *ementary and secondary educational institutions; and*

6 “(2) *the term ‘health care institutions’ means*
7 *not-for-profit health care institutions, including hos-*
8 *pitals and clinics.”.*

9 **SEC. 104. DISCRIMINATORY INTERCONNECTION.**

10 *Section 208 of the Communications Act of 1934 is*
11 *amended by adding at the end thereof the following new*
12 *subsection:*

13 “(c) *EXPEDITED REVIEW OF CERTAIN COMPLAINTS.*—
14 *The Commission shall issue a final order with respect to*
15 *any complaint arising from alleged violations of the regula-*
16 *tions and orders prescribed pursuant to section 201(c) with-*
17 *in 180 days after the date such complaint is filed.”.*

18 **SEC. 105. EXPEDITED LICENSING OF NEW TECHNOLOGIES**

19 **AND SERVICES.**

20 *Section 7 of the Communications Act of 1934 (47*
21 *U.S.C. 157) is amended by adding at the end thereof the*
22 *following new subsection:*

23 “(c) *LICENSING OF NEW TECHNOLOGIES.*—

24 “(1) *EXPEDITED RULEMAKING.*—*Within 24*
25 *months after making a determination under sub-*

1 *section (b) that a technology or service related to the*
2 *furnishing of telecommunications services is in the*
3 *public interest, the Commission shall, with respect to*
4 *any such service requiring a license or other author-*
5 *ization from the Commission, adopt and make effec-*
6 *tive regulations for—*

7 *“(A) the provision of such technology or*
8 *service; and*

9 *“(B) the filing of applications for the li-*
10 *censes or authorizations necessary to offer such*
11 *technology or service to the public, and shall act*
12 *on any such application within 24 months after*
13 *it is filed.*

14 *“(2) REVIEW OF APPLICATIONS.—Any applica-*
15 *tion filed by a carrier under this subsection for the*
16 *construction or extension of a line shall also be subject*
17 *to section 214 and to any necessary approval by the*
18 *appropriate State commissions.”.*

19 **SEC. 106. NEW OR EXTENDED LINES.**

20 *Section 214 of the Communications Act of 1934 is*
21 *amended by adding at the end the following new subsection:*

22 *“(e) Any application filed under this section for au-*
23 *thority to construct or extend a line shall address the means*
24 *by which such construction or extension will meet the net-*
25 *work access needs of individuals with disabilities.”.*

1 **SEC. 107. POLE ATTACHMENTS.**

2 *Section 224 of the Communications Act of 1934 (47*
3 *U.S.C. 244) is amended—*

4 *(1) in subsection (a)(4), by inserting after “sys-*
5 *tem” the following: “or a provider of telecommuni-*
6 *cations service”;*

7 *(2) in subsection (c)(2)(B), by striking “cable tel-*
8 *evision services” and inserting “the services offered*
9 *via such attachments”;*

10 *(3) by redesignating subsection (d)(2) as sub-*
11 *section (d)(4); and*

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

14 *“(d)(1) For purposes of subsection (b) of this section,*
15 *the Commission shall, no later than 1 year after the date*
16 *of enactment of the National Communications Competition*
17 *and Information Infrastructure Act of 1994, prescribe regu-*
18 *lations for ensuring that utilities charge just and reasonable*
19 *and nondiscriminatory rates for pole attachments provided*
20 *to all providers of telecommunications services, including*
21 *such attachments used by cable television systems to provide*
22 *telecommunications services (as defined in section 3(mm)*
23 *of this Act). Such regulations shall—*

24 *“(A) recognize that the entire pole, duct, conduit,*
25 *or right-of-way other than the usable space is of equal*
26 *benefit to all attachments to the pole, duct, conduit,*

1 *or right-of-way and therefore apportion the cost of the*
2 *space other than the usable space equally among all*
3 *attachments,*

4 *“(B) recognize that the usable space is of propor-*
5 *tional benefit to all entities attached to the pole, duct,*
6 *conduit, or right-of-way and therefore apportion the*
7 *cost of the usable space according to the percentage of*
8 *usable space required for each entity, and*

9 *“(C) allow for reasonable terms and conditions*
10 *relating to health, safety, and the provision of reliable*
11 *utility service.*

12 *“(2) The final regulations prescribed by the Commis-*
13 *sion pursuant to subparagraphs (A), (B), and (C) of sub-*
14 *section (d)(1) shall not apply to a pole attachment used*
15 *by a cable television system which solely provides cable serv-*
16 *ice as defined in section 602(6) of this Act. The rates for*
17 *pole attachments used for such purposes shall assure a util-*
18 *ity the recovery of not less than the additional costs of pro-*
19 *viding pole attachments, nor more than an amount deter-*
20 *mined by multiplying the percentage of the total usable*
21 *space, or the percentage of the total duct, conduit, or right-*
22 *of-way capacity, which is occupied by the pole attachment*
23 *by the sum of the operating expenses and actual capital*
24 *costs of the utility attributable to the entire pole, duct, con-*
25 *duit, or right-of-way.*

1 “(3) For all providers of telecommunications services
2 except members of the exchange carrier association estab-
3 lished in 47 C.F.R. 69.601 as of December 31, 1993, upon
4 enactment of this paragraph and until the Commission pro-
5 mulgates its final regulations pursuant to subparagraphs
6 (A), (B), and (C) of paragraph (1), the rate formula con-
7 tained in any joint use pole attachment agreement between
8 the electric utility and the largest local exchange carrier
9 having such a joint use agreement in the utility’s service
10 area, in effect on January 1, 1994, shall also apply to the
11 pole attachments in the utility’s service area, but if no such
12 joint use agreement containing a rate formula exists, then
13 the pole attachment rate shall be the rate applicable under
14 paragraph (2) to cable television systems which solely pro-
15 vide cable service as defined in section 602(6) of this Act.
16 Disputes concerning the applicability of a joint use agree-
17 ment shall be resolved by the Commission or the States, as
18 appropriate.”.

19 **SEC. 108. INQUIRY ON CIVIC PARTICIPATION.**

20 (a) *INQUIRY ON POLICIES TO ENHANCE CIVIC PAR-*
21 *TICIPATION ON THE INTERNET.*—The Commission, in con-
22 sultation with the National Telecommunications and Infor-
23 mation Administration, shall initiate an inquiry into poli-
24 cies that will enhance civic participation through the
25 Internet. The inquiry shall request public comment on the

1 *question of whether common carriers should be required to*
2 *provide citizens with a flat rate service for gaining access*
3 *to the Internet.*

4 *(b) PARTICIPATION IN REGULATORY AFFAIRS.—The*
5 *Commission, in consultation with the Office of Consumer*
6 *Affairs, shall conduct a study of how to encourage citizen*
7 *participation in regulatory issues and, within 120 days*
8 *from the date of enactment of this Act, report to Congress*
9 *on the results of the study.*

10 **SEC. 109. COMPETITION BY SMALL BUSINESS AND MINOR-**
11 **ITY-OWNED BUSINESS CONCERNS.**

12 *Title II of the Communications Act of 1934 is amended*
13 *by adding at the end the following new section:*

14 **“SEC. 230. POLICY AND RULEMAKING TO PROMOTE COM-**
15 **PETITION BY SMALL BUSINESS AND MINOR-**
16 **ITY-OWNED BUSINESS CONCERNS.**

17 *“(a) POLICY; FINDING.—It shall be the policy of the*
18 *Commission to promote whenever possible the ownership of*
19 *information services and telecommunication services by*
20 *small business concerns, minority-owned business concerns,*
21 *and nonprofit entities. The Congress finds that the goals*
22 *of competitively priced services, service innovation, employ-*
23 *ment, and diversity of viewpoint can be advanced by pro-*
24 *moting marketplace penetration by such concerns and enti-*
25 *ties.*

1 “(b) *RULEMAKING REQUIRED.*—Within 1 year after
2 the date of enactment of this section, the Commission, in
3 consultation with the National Telecommunications and In-
4 formation Administration, shall initiate a rulemaking pro-
5 ceeding for the purpose of lowering market entry barriers
6 for small business, minority-owned business concerns, and
7 nonprofit entities that are seeking to provide telecommuni-
8 cation services and information services. The proceeding
9 shall seek to provide remedies for, among other things, lack
10 of access to capital and technical and marketing expertise
11 on the part of such concerns and entities. Consistent with
12 the broad policy and finding set forth in subsection (a), the
13 Commission shall adopt such regulations and make such
14 recommendations to Congress as the Commission deems ap-
15 propriate. Not later than 2 years after the date of enactment
16 of this section, the Commission shall complete the proceed-
17 ing required by this subsection.”.

18 **TITLE II—COMMUNICATIONS**

19 **COMPETITIVENESS**

20 **SEC. 201. CABLE SERVICE PROVIDED BY TELEPHONE COM-** 21 **PANIES.**

22 (a) *GENERAL REQUIREMENT.*—

23 (1) *AMENDMENT.*—Section 613(b) of the Commu-
24 nications Act of 1934 (47 U.S.C. 533(b)) is amended
25 to read as follows:

1 “(b)(1) Subject to the requirements of part V and the
2 other provisions of this title, any common carrier subject
3 in whole or in part to title II of this Act may, either
4 through its own facilities or through an affiliate owned, op-
5 erated, or controlled by, or under common control with, the
6 common carrier, provide video programming directly to
7 subscribers in its telephone service area.

8 “(2) Subject to the requirements of part V and the
9 other provisions of this title, any common carrier subject
10 in whole or in part to title II of this Act may provide chan-
11 nels of communications or pole, line, or conduit space, or
12 other rental arrangements, to any entity which is directly
13 or indirectly owned, operated, or controlled by, or under
14 common control with, such common carrier, if such facili-
15 ties or arrangements are to be used for, or in connection
16 with, the provision of video programming directly to sub-
17 sscribers in its telephone service area.

18 “(3) Notwithstanding paragraphs (1) and (2), an affil-
19 iate that—

20 “(A) is, consistent with section 656, owned, oper-
21 ated, or controlled by, or under common control with,
22 a common carrier subject in whole or in part to title
23 II of this Act, and

24 “(B) provides video programming to subscribers
25 in the telephone service area of such carrier, but

1 “(C) does not utilize the local exchange facilities
2 or services of any affiliated common carrier in dis-
3 tributing such programming,
4 shall not be subject to the requirements of part V, but shall
5 be subject to the requirements of this part and parts III
6 and IV.”.

7 (2) *CONFORMING AMENDMENT.*—Section 602 of
8 the Communications Act of 1934 (47 U.S.C. 531) is
9 amended—

10 (A) in paragraph (6)(B), by inserting “or
11 use” after “the selection”;

12 (B) by redesignating paragraphs (18) and
13 (19) as paragraphs (19) and (20) respectively;
14 and

15 (C) by inserting after paragraph (17) the
16 following new paragraph:

17 “(18) the term ‘telephone service area’ when used
18 in connection with a common carrier subject in whole
19 or in part to title II of this Act means the area with-
20 in which such carrier provides telephone exchange
21 service as of November 20, 1993, but if any common
22 carrier after such date transfers its exchange service
23 facilities to another common carrier, the area to
24 which such facilities provide telephone exchange serv-
25 ice shall be treated as part of the telephone service

1 *area of the acquiring common carrier and not of the*
2 *selling common carrier;”.*

3 *(b) PROVISIONS FOR REGULATION OF CABLE SERVICE*
4 *PROVIDED BY TELEPHONE COMPANIES.—Title VI of the*
5 *Communications Act of 1934 (47 U.S.C. 521 et seq.) is*
6 *amended by adding at the end the following new part:*

7 ***“PART V—VIDEO PROGRAMMING SERVICES***

8 ***PROVIDED BY TELEPHONE COMPANIES***

9 ***“SEC. 651. DEFINITIONS.***

10 *“For purposes of this part—*

11 *“(1) the term ‘control’ means—*

12 *“(A) an ownership interest in which an en-*
13 *tity has the right to vote more than 50 percent*
14 *of the outstanding common stock or other owner-*
15 *ship interest; or*

16 *“(B) actual working control, as defined in*
17 *the order of the Commission entitled ‘Implemen-*
18 *tation of Sections 11 and 13 of the Cable Tele-*
19 *vision Consumer Protection and Competitive Act*
20 *of 1992—Horizontal and Vertical Ownership*
21 *Limits, Cross-Ownership Limitations, and Anti-*
22 *Trafficking Provisions’, MM Docket 92–264,*
23 *adopted September 23, 1993, if no single entity*
24 *directly or indirectly has the right to vote more*

1 *than 50 percent of the outstanding common stock*
2 *or other ownership interest;*

3 “(2) *the term ‘video platform’ has the same*
4 *meaning as the term ‘basic platform’ in the order of*
5 *the Commission entitled ‘Telephone Company-Cable*
6 *Television Cross-Ownership Rules, Sections 63.54–*
7 *63.58’, CC Docket No. 87–266, adopted July 16, 1992,*
8 *except that the Commission may modify this defini-*
9 *tion by regulation consistent with the purposes of this*
10 *Act; and*

11 “(3) *the term ‘rural area’ means a geographic*
12 *area that does not include either—*

13 “(A) *any incorporated or unincorporated*
14 *place of 10,000 inhabitants or more, or any part*
15 *thereof; or*

16 “(B) *any territory, incorporated or unin-*
17 *corporated, included in an urbanized area.*

18 **“SEC. 652. SEPARATE VIDEO PROGRAMMING AFFILIATE.**

19 “(a) *IN GENERAL.—Except as provided in subsection*
20 *(d) of this section, a common carrier subject to title II of*
21 *this Act shall not provide video programming directly to*
22 *subscribers in its telephone service area unless such video*
23 *programming is provided through a video programming af-*
24 *filiate that is separate from such carrier.*

25 “(b) *BOOKS AND MARKETING.—*

1 “(1) *IN GENERAL.*—A video programming affili-
2 *ate of a common carrier shall—*

3 “(A) *maintain books, records, and accounts*
4 *separate from such carrier which identify all*
5 *transactions with such carrier;*

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

11 “(C) *not own real or personal property in*
12 *common with such carrier.*

13 “(2) *INBOUND TELEMARKETING AND REFER-*
14 *RAL.*—*Notwithstanding paragraph (1)(B), a common*
15 *carrier may provide telemarketing or referral services*
16 *in response to the call of a customer or potential cus-*
17 *tomer related to the provision of video programming*
18 *by a video programming affiliate of such carrier. If*
19 *such services are provided to a video programming af-*
20 *filiate, such services shall be made available to any*
21 *video programmer or cable operator on request, on*
22 *nondiscriminatory terms, at just and reasonable*
23 *prices, and subject to regulations of the Commission*
24 *to ensure that the carrier’s method of providing*
25 *telemarketing or referral and its price structure do*

1 *not competitively disadvantage any video program-*
2 *mer or cable operator, regardless of size, including*
3 *those which do not use the carrier's telemarketing*
4 *services.*

5 *“(3) JOINT TELEMARKETING.—Notwithstanding*
6 *paragraph (1)(B), a common carrier may petition the*
7 *Commission for permission to market video program-*
8 *ming directly, upon a showing that a cable operator*
9 *or other entity directly or indirectly provides tele-*
10 *communications services within the telephone service*
11 *area of the common carrier, and markets such tele-*
12 *communications services jointly with video program-*
13 *ming services. The common carrier shall specify the*
14 *geographic region covered by the petition. Any such*
15 *petition shall be granted or denied within 180 days*
16 *after the date of its submission.*

17 *“(c) BUSINESS TRANSACTIONS WITH CARRIER SUB-*
18 *JECT TO REGULATION.—Any contract, agreement, arrange-*
19 *ment, or other manner of conducting business, between a*
20 *common carrier and its video programming affiliate, pro-*
21 *viding for—*

22 *“(1) the sale, exchange, or leasing of property be-*
23 *tween such affiliate and such carrier,*

24 *“(2) the furnishing of goods or services between*
25 *such affiliate and such carrier, or*

1 “(3) the transfer to or use by such affiliate for
2 its benefit of any asset or resource of such carrier,
3 shall be pursuant to regulation prescribed by the Commis-
4 sion, shall be on a fully compensatory and auditable basis,
5 shall be without cost to the telephone service ratepayers of
6 the carrier, shall be filed with the Commission, and shall
7 be in compliance with regulations established by the Com-
8 mission that will enable the Commission to assess the com-
9 pliance of any transaction.

10 “(d) WAIVER.—

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

16 “(A) such waiver will not affect the ability
17 of the Commission to ensure that all video pro-
18 gramming activity is carried out without any
19 support from telephone ratepayers;

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

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

1 “(D) such waiver otherwise is in the public
2 interest.

3 “(2) *DEADLINE FOR ACTION.*—The Commission
4 shall act to approve or disapprove a waiver applica-
5 tion within 180 days after the date it is filed.

6 “(3) *CONTINUED APPLICABILITY OF SECTION*
7 *659.*—In the case of a common carrier that obtains a
8 waiver under this subsection, any requirement that
9 section 659 applies to a video programming affiliate
10 shall instead apply to such carrier.

11 **“SEC. 653. ESTABLISHMENT OF VIDEO PLATFORM.**

12 “(a) *COMMON CARRIER OBLIGATIONS.*—

13 “(1) *IN GENERAL.*—Any common carrier subject
14 to title II of this Act and that provides, through a
15 video programming affiliate, video programming di-
16 rectly to subscribers in its telephone service area, shall
17 establish a video platform.

18 “(2) *IDENTIFICATION OF DEMAND FOR CAR-*
19 *RIAGE.*—Any common carrier subject to the require-
20 ments of paragraph (1) shall, prior to establishing a
21 video platform, submit a notice to the Commission of
22 its intention to establish channel capacity for the pro-
23 vision of video programming to meet the bona fide de-
24 mand for such capacity. Such notice shall—

1 “(A) be in such form and contain such in-
2 formation as the Commission may require by
3 regulations pursuant to subsection (b);

4 “(B) specify the methods by which any en-
5 tity seeking to use such channel capacity should
6 submit to such carrier a specification of its
7 channel capacity requirements; and

8 “(C) specify the procedures by which such
9 carrier will determine (in accordance with the
10 Commission’s regulations under subsection
11 (b)(1)(B)) whether such request for capacity are
12 bona fide.

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

16 “(3) RESPONSE TO REQUEST FOR CARRIAGE.—
17 After receiving and reviewing the requests for capac-
18 ity submitted pursuant to such notice, such common
19 carrier shall, subject to approval of a certificate under
20 section 214, establish channel capacity that is suffi-
21 cient to provide carriage for—

22 “(A) all bona fide requests submitted pursu-
23 ant to such notice,

24 “(B) any additional channels required pur-
25 suant to section 659, and

1 “(C) any additional channels required by
2 the Commission’s regulations under subsection
3 (b)(1)(C).

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

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

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

15 “(C) if at any time the number of channels
16 required for bona fide requests for carriage may
17 reasonably be expected soon to exceed the existing
18 capacity of such video platform, immediately no-
19 tify the Commission of such expectation and of
20 the manner and date by which such carrier will
21 provide sufficient capacity to meet such excess
22 demand; and

23 “(D) construct, subject to approval of a cer-
24 tificate under section 214, such additional capac-

1 *ity as may be necessary to meet such excess de-*
2 *mand.*

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

14 “(b) *COMMISSION REGULATIONS.*—

15 “(1) *IN GENERAL.*—*Within one year after the*
16 *date of the enactment of this section, the Commission*
17 *shall prescribe regulations that—*

18 “(A) *consistent with the requirements of sec-*
19 *tion 659, prohibit a common carrier from dis-*
20 *criminating among video programming provid-*
21 *ers with regard to carriage on its video platform,*
22 *and ensure that the rates, terms, and conditions*
23 *for such carriage are just, reasonable, and non-*
24 *discriminatory;*

1 “(B) prescribe definitions and criteria for
2 the purposes of determining whether a request
3 shall be considered a bona fide request for pur-
4 poses of this section;

5 “(C) establish a requirement that video
6 platforms contain a suitable margin of unused
7 channel capacity to meet reasonable growth in
8 bona fide demand for such capacity;

9 “(D) extend to video platforms the Commis-
10 sion’s regulations concerning network non-
11 duplication (47 C.F.R. 76.92 et seq.) and syn-
12 dicated exclusivity (47 C.F.R. 76.151 et seq.);

13 “(E) require the video platform to provide
14 service, transmission, interconnection, and inter-
15 operability for unaffiliated or independent video
16 programming providers that is equivalent to that
17 provided to the common carrier’s video program-
18 ming affiliate;

19 “(F)(i) prohibit a common carrier from dis-
20 criminating among video programming provid-
21 ers with regard to material or information pro-
22 vided by the common carrier to subscribers for
23 the purposes of selecting programming on the
24 video platform, or in the way such material or
25 information is presented to subscribers;

1 “(ii) require a common carrier to ensure
2 that video programming providers or copyright
3 holders (or both) are able suitably and uniquely
4 to identify their programming services to sub-
5 scribers; and

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

10 “(G) prohibit a common carrier from ex-
11 cluding areas from its video platform service
12 area on the basis of the ethnicity, race, or income
13 of the residents of that area, and provide for
14 public comments on the adequacy of the proposed
15 service area on the basis of the standards set
16 forth under this subparagraph.

17 “(2) *EXTENSION OF REGULATIONS TO OTHER*
18 *HIGH CAPACITY SYSTEMS.*—The Commission shall ex-
19 tend the requirements of the regulations prescribed
20 pursuant to this section, in lieu of the requirements
21 of section 612, to any cable operator of a cable system
22 that has installed a switched, broadband video pro-
23 gramming delivery system, except that the Commis-
24 sion shall not extend the requirements of the regula-
25 tions prescribed pursuant to subsection (b)(1)(D) or

1 *any other requirement that the Commission deter-*
2 *mines is clearly inappropriate.*

3 *“(c) COMMISSION INQUIRY.—The Commission shall*
4 *conduct a study of whether it is in the public interest to*
5 *extend the requirements of subsection (a) to any other cable*
6 *operators in lieu of the requirements of section 612. The*
7 *Commission shall submit to the Congress a report on the*
8 *results of such study not later than 2 years after the date*
9 *of enactment of this section.*

10 **“SEC. 654. EQUAL ACCESS COMPLIANCE.**

11 *“(a) CERTIFICATION REQUIRED.—*

12 *“(1) IN GENERAL.—A common carrier subject to*
13 *title II of this Act shall not provide video program-*
14 *ming directly to subscribers in its telephone service*
15 *area unless such carrier has certified to the Commis-*
16 *sion that such carrier is in compliance with the re-*
17 *quirements of paragraphs (1) and (2) of section*
18 *201(c) of this Act, and regulations prescribed pursu-*
19 *ant to such paragraphs.*

20 *“(2) EXCEPTION.—Notwithstanding paragraph*
21 *(1), a common carrier subject to title II of this Act*
22 *may provide video programming directly to subscrib-*
23 *ers in its telephone service area during any period*
24 *prior to the date the Commission first prescribes final*
25 *regulations pursuant to paragraphs (1) and (2) of*

1 *section 201(c) of this Act if such carrier has certified*
2 *to the Commission that such carrier is in compliance*
3 *with State laws and regulations concerning equal ac-*
4 *cess, interconnection, and unbundling that are sub-*
5 *stantially similar to and fully consistent with the re-*
6 *quirements of such paragraphs or if there is no statu-*
7 *tory prohibition against such carrier providing video*
8 *programming directly to subscribers in its telephone*
9 *service area on the date of enactment of this section.*
10 *A common carrier that submits a certification pursu-*
11 *ant to this paragraph shall not be exempt from the*
12 *requirements of paragraph (1) after the effective date*
13 *of such final regulations.*

14 *“(b) CERTIFICATION AND APPLICATION APPROVAL.—*
15 *A common carrier that submits a certification under para-*
16 *graph (1) or (2) of subsection (a) shall be eligible to provide*
17 *video programming to subscribers in accordance with the*
18 *requirements of this part, subject to the approval of any*
19 *necessary application under section 214 for authority to es-*
20 *tablish a video platform. An application under section 214*
21 *may be filed simultaneously with the filing of such certifi-*
22 *cation or at any time after the date of enactment of this*
23 *section, and the Commission shall act to approve (with or*
24 *without modification) or reject such application within 180*
25 *days after the date of its submission. If the Commission*

1 *acts to approve such an application prior to the filing of*
2 *such certification, such approval shall not be effective until*
3 *such certification is filed.*

4 **“SEC. 655. PROHIBITION OF CROSS-SUBSIDIZATION.**

5 *“(a) CROSS SUBSIDIES PROHIBITION.—The Commis-*
6 *sion shall—*

7 *“(1) prescribe regulations to prohibit a common*
8 *carrier from engaging in any practice that results in*
9 *the inclusion in rates for telephone exchange service*
10 *or telephone exchange access service of any operating*
11 *expenses, costs, depreciation charges, capital invest-*
12 *ments, or other expenses directly associated with the*
13 *provision of competing video programming services*
14 *by the common carrier or affiliate; and*

15 *“(2) ensure such competing video programming*
16 *services bear a reasonable share of the joint and com-*
17 *mon costs of facilities used to provide telephone ex-*
18 *change service or telephone exchange access service*
19 *and competing video programming services.*

20 *“(b) CABLE OPERATOR PROHIBITIONS.—The Commis-*
21 *sion shall prescribe regulations to prohibit a cable operator*
22 *from engaging in any practice that results in improper*
23 *cross-subsidization between its regulated cable operations*
24 *and its provision of telecommunications service, either di-*
25 *rectly or through an affiliate.*

1 **“SEC. 656. PROHIBITION ON BUYOUTS.**

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

8 “(b) *EXCEPTIONS.*—Notwithstanding subsection (a), a
9 common carrier may—

10 “(1) obtain a controlling interest in, or form a
11 joint venture or other partnership with, a cable sys-
12 tem that serves a rural area;

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

18 “(A) such systems in the aggregate serve less
19 than 10 percent of the households in the tele-
20 phone service area of such carrier; and

21 “(B) no such system serves a franchise area
22 with more than 35,000 inhabitants, except that
23 a common carrier may obtain such interest or
24 form such joint venture or other partnership
25 with a cable system that serves a franchise area
26 with more than 35,000 but not more than 50,000

1 *inhabitants if such system is not affiliated (as*
2 *such term is defined in section 602) with any*
3 *other system whose franchise area is contiguous*
4 *to the franchise area of the acquired system; or*
5 *“(3) obtain, with the concurrence of the cable op-*
6 *erator on the rates, terms, and conditions, the use of*
7 *that part of the transmission facilities of such a cable*
8 *system extending from the last multi-user terminal to*
9 *the premises of the end user, if such use is reasonably*
10 *limited in scope and duration, as determined by the*
11 *Commission.*

12 *“(c) WAIVER.—*

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

16 *“(A) because of the nature of the market*
17 *served by the cable system concerned—*

18 *“(i) the incumbent cable operator*
19 *would be subjected to undue economic dis-*
20 *tress by the enforcement of such subsection;*
21 *or*

22 *“(ii) the cable system would not be eco-*
23 *nomically viable if such subsection were en-*
24 *forced; and*

1 “(B) the local franchising authority ap-
2 proves of such waiver.

3 “(2) *DEADLINE FOR ACTION.*—The Commission
4 shall act to approve or disapprove a waiver applica-
5 tion within 180 days after the date it is filed.

6 **“SEC. 657. PENALTIES.**

7 *“If the Commission finds that any common carrier has*
8 *knowingly violated any provision of this part, the Commis-*
9 *sion shall assess such fines and penalties as it deems appro-*
10 *priate pursuant to this Act.*

11 **“SEC. 658. CONSUMER PROTECTION.**

12 “(a) *JOINT BOARD REQUIRED.*—Within 30 days after
13 the date of enactment of this part, the Commission shall
14 convene a Federal-State Joint Board under the provisions
15 of section 410(c) for the purpose of recommending a decision
16 concerning the practices, classifications, and regulations as
17 may be necessary to ensure proper jurisdictional separation
18 and allocation of the costs of establishing and providing a
19 video platform. The Board shall issue its recommendations
20 to the Commission within 270 days after the date of enact-
21 ment of this part.

22 “(b) *COMMISSION REGULATIONS REQUIRED.*—The
23 Commission, with respect to interstate switched access serv-
24 ice, and the States, with respect to telephone exchange serv-
25 ice and intrastate interexchange service, shall establish such

1 *affiliate of a common carrier shall provide (A) capac-*
2 *ity, services, facilities, and equipment for public, edu-*
3 *ational, and governmental use, (B) capacity for com-*
4 *mercial use, (C) carriage of commercial and non-com-*
5 *mercial broadcast television stations, and (D) an op-*
6 *portunity for commercial broadcast stations to choose*
7 *between mandatory carriage and reimbursement for*
8 *retransmission of the signal of such station. In pre-*
9 *scribing such regulations, the Commission shall, to the*
10 *extent possible, impose obligations that are no greater*
11 *or lesser than the obligations contained in the provi-*
12 *sions described in subsection (a)(2) of this section.*
13 *Such regulations shall also require that, if a common*
14 *carrier establishes a video platform but does not pro-*
15 *vide or ceases to provide video programming through*
16 *a video programming affiliate, such carrier shall*
17 *comply with the regulations prescribed under this*
18 *paragraph and with the provisions described in sub-*
19 *section (a)(1) in the operation of its video platform.*

20 “(2) FEES.—A video programming affiliate of
21 any common carrier that establishes a video platform
22 under this part, and any multichannel video pro-
23 gramming distributor offering a competing service
24 using such video platform (as determined in accord-
25 ance with regulations of the Commission), shall be

1 *subject to the payment of fees imposed by a local fran-*
2 *chising authority, in lieu of the fees required under*
3 *section 622. The rate at which such fees are imposed*
4 *shall not exceed the rate at which franchise fees are*
5 *imposed on any cable operator transmitting video*
6 *programming in the same service area.*

7 ***“SEC. 660. RURAL AREA EXEMPTION.***

8 *“The provisions of sections 652, 653, 654, and 656*
9 *shall not apply to video programming provided in a rural*
10 *area by a common carrier that provides telephone exchange*
11 *service in the same area.”.*

12 ***SEC. 202. REVIEW OF BROADCASTERS OWNERSHIP RE-***
13 ***STRICTIONS.***

14 *Within one year after the date of enactment of this*
15 *Act, the Commission shall, after a notice and comment pro-*
16 *ceeding, prescribe regulations to modify, maintain, or re-*
17 *move the ownership regulations on radio and television*
18 *broadcasters as necessary to ensure that broadcasters are*
19 *able to compete fairly with other information providers*
20 *while protecting the goals of diversity and localism.*

21 ***SEC. 203. REVIEW OF STATUTORY OWNERSHIP RESTRIC-***
22 ***TION.***

23 *Within one year after the date of enactment of this*
24 *Act, the Commission shall review the ownership restriction*
25 *in section 613(a)(1) of the Communications Act of 1934 (47*

1 *U.S.C. 553(a)(1)) and report to Congress whether or not*
2 *such restriction continues to serve the public interest.*

3 **SEC. 204. BROADCASTER SPECTRUM FLEXIBILITY.**

4 (a) *REGULATIONS REQUIRED.*—*If the Commission de-*
5 *termines to issue additional licenses for advanced television*
6 *services, and initially limits the eligibility for such licenses*
7 *to persons that, as of the date of such issuance, are licensed*
8 *to operate a television broadcast station or hold a permit*
9 *to construct such a station (or both), the Commission shall*
10 *adopt regulations that allow such licensees or permittees to*
11 *offer such ancillary or supplementary services on designated*
12 *frequencies as may be consistent with the public interest,*
13 *convenience, and necessity.*

14 (b) *CONTENTS OF REGULATIONS.*—*In prescribing the*
15 *regulations required by subsection (a), the Commission*
16 *shall—*

17 (1) *only permit such licensee or permittee to*
18 *offer ancillary or supplementary services if the use of*
19 *a designated frequency for such services is indivisible*
20 *from the use of such designated frequency for the pro-*
21 *vision of advanced television services;*

22 (2) *limit the broadcasting of ancillary or supple-*
23 *mentary services on designated frequencies so as to*
24 *avoid derogation of any advanced television services,*

1 *including high definition television broadcasts, that*
2 *the Commission may require using such frequencies;*

3 *(3) treat any such ancillary or supplementary*
4 *services for which the licensee or permittee solicits*
5 *and receives compensation in return for transmitting*
6 *commercial advertising as broadcast services for the*
7 *purposes of the Communications Act of 1934 and the*
8 *Children's Television Act of 1990 (47 U.S.C. 303a),*
9 *and the Commission's regulations thereunder, includ-*
10 *ing regulations promulgated pursuant to section 315*
11 *of the Communications Act of 1934 (47 U.S.C. 315);*

12 *(4) apply to any other ancillary or supple-*
13 *mentary service such of the Commission's regulations*
14 *as are applicable to the offering of analogous services*
15 *by any other person;*

16 *(5) adopt such technical and other requirements*
17 *as may be necessary or appropriate to assure the*
18 *quality of the signal used to provide advanced tele-*
19 *vision services, including regulations that stipulate*
20 *the minimum number of hours per day that such sig-*
21 *nal must be transmitted; and*

22 *(6) prescribe such other regulations as may be*
23 *necessary for the protection of the public interest, con-*
24 *venience, and necessity.*

25 *(c) RECOVERY OF LICENSE.—*

1 (1) *CONDITIONS REQUIRED.*—If the Commission
2 limits the eligibility for licenses to provide advanced
3 television services in the manner described in sub-
4 section (a), the Commission shall, as a condition of
5 such license, require that, upon a determination by
6 the Commission pursuant to the regulations pre-
7 scribed under paragraph (2), either the additional li-
8 cense or the original license held by the licensee be
9 surrendered to the Commission in accordance with
10 such regulations for reallocation or reassignment (or
11 both) pursuant to Commission regulation.

12 (2) *REGULATIONS.*—The Commission shall pre-
13 scribe regulations establishing criteria for rendering
14 determinations concerning license surrender pursuant
15 to license conditions required by paragraph (1). Such
16 regulations shall—

17 (A) require such determinations to be based
18 on whether the substantial majority of the public
19 have obtained television receivers that are capa-
20 ble of receiving advanced television services; and

21 (B) not require the cessation of the broad-
22 casting if such cessation would render the tele-
23 vision receivers of a substantial portion of the
24 public useless, or otherwise cause undue burdens
25 on the owners of such television receivers.

1 (d) *FEEES REQUIRED.*—

2 (1) *SERVICES TO WHICH FEES APPLY.*—If the
3 regulations prescribed pursuant to subsection (a) per-
4 mit a licensee to offer ancillary or supplementary
5 services on a designated frequency—

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

9 (B) for which the licensee directly or indi-
10 rectly receives compensation from a third party
11 in return for transmitting material furnished by
12 such third party (other than commercial adver-
13 tisements used to support broadcasting for which
14 a subscription fee is not required),
15 the Commission shall establish by regulation a pro-
16 gram to assess and collect an annual fee or royalty
17 payment.

18 (2) *CRITERIA FOR REGULATIONS.*—The regula-
19 tions required by paragraph (1) shall—

20 (A) be designed (i) to recover for the public
21 a portion of the value of the public spectrum re-
22 source made available for such commercial use,
23 and (ii) to avoid unjust enrichment through the
24 method employed to permit such uses of that re-
25 source;

1 (B) recover for the public an amount that
2 is, to maximum extent feasible, equal (over the
3 term of the license) to the amount that would
4 have been recovered had such services been li-
5 censed pursuant to the provisions of section
6 309(j) of the Communications Act of 1934 (47
7 U.S.C. 309(j)) and the Commission's regulations
8 thereunder; and

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

12 (3) TREATMENT OF REVENUES.—

13 (A) GENERAL RULE.—Except as provided
14 in subparagraph (B), all proceeds obtained pur-
15 suant to the regulations required by this sub-
16 section shall be deposited in the Treasury in ac-
17 cordance with chapter 33 of title 31, United
18 States Code.

19 (B) RETENTION OF REVENUES.—Notwith-
20 standing subparagraph (A), the salaries and ex-
21 penses account of the Commission shall retain as
22 an offsetting collection such sums as may be nec-
23 essary from such proceeds for the costs of devel-
24 oping and implementing the program required
25 by this section and regulating and supervising

1 *advanced television services. Such offsetting col-*
2 *lections shall be available for obligation subject*
3 *to the terms and conditions of the receiving ap-*
4 *propriations account, and shall be deposited in*
5 *such accounts on a quarterly basis.*

6 (4) *REPORT.*—*Within 5 years after the date of*
7 *the enactment of this section, the Commission shall*
8 *report to the Congress on the implementation of the*
9 *program required by this subsection, and shall annu-*
10 *ally thereafter advise the Congress on the amounts*
11 *collected pursuant to such program.*

12 (e) *EVALUATION REQUIRED.*—*Within 10 years after*
13 *the date the Commission first issues additional licenses for*
14 *advanced television services, the Commission shall conduct*
15 *an evaluation of the advanced television services program.*
16 *Such evaluation shall include—*

17 (1) *an assessment of the willingness of consumers*
18 *to purchase the television receivers necessary to re-*
19 *ceive broadcasts of advanced television services;*

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

23 (3) *the extent to which the Commission has been*
24 *or will be able to reduce the amount of spectrum as-*

1 *signed to licensees in order to issue additional licenses*
2 *for the provision of advanced television services.*

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

4 *(1) ADVANCED TELEVISION SERVICES.—The term*
5 *“advanced television services” means television serv-*
6 *ices provided using digital or other advanced tech-*
7 *nology to enhance audio quality and video resolution,*
8 *as further defined in the opinion, report, and order*
9 *of the Commission entitled “Advanced Television Sys-*
10 *tems and Their Impact Upon the Existing Television*
11 *Broadcast Service”, MM Docket 87-268, adopted Sep-*
12 *tember 17, 1992, and successor proceedings.*

13 *(2) DESIGNATED FREQUENCIES.—The term “des-*
14 *ignated frequency” means each of the frequencies des-*
15 *ignated by the Commission for licenses for advanced*
16 *television services.*

17 *(3) HIGH DEFINITION TELEVISION.—The term*
18 *“high definition television” refers to systems that offer*
19 *approximately twice the vertical and horizontal reso-*
20 *lution of receivers generally available on the date of*
21 *enactment of this section, as further defined in the*
22 *proceedings described in paragraph (1) of this sub-*
23 *section.*

1 **SEC. 205. INTERACTIVE SERVICES AND CRITICAL INTER-**
2 **FACES.**

3 (a) *FINDINGS.*—*The Congress finds that—*

4 (1) *the convergence of communications, comput-*
5 *ing, and video technologies will permit improvements*
6 *in interoperability between and among those tech-*
7 *nologies;*

8 (2) *in the public switched telecommunications*
9 *network, open protocols and technical requirements*
10 *for connection between the network and the consumer,*
11 *and the availability of unbundled customer equipment*
12 *through retailers and other third party vendors, have*
13 *served to broaden consumer choice, lower prices, and*
14 *spur competition and innovation in the customer*
15 *equipment industry;*

16 (3) *set-top boxes and other interactive commu-*
17 *nications devices could similarly serve as a critical*
18 *gateway between American homes and businesses and*
19 *advanced telecommunications and video program-*
20 *ming networks;*

21 (4) *American consumers have benefited from the*
22 *ability to own or rent customer premises equipment*
23 *obtained from retailers and other vendors and the*
24 *ability to access the network with portable, compatible*
25 *equipment;*

1 (5) *in order to promote diversity, competition,*
2 *and technological innovation among suppliers of*
3 *equipment and services, it may be necessary to make*
4 *certain critical interfaces with such networks open*
5 *and accessible to a broad range of equipment manu-*
6 *facturers and information providers;*

7 (6) *the identification of critical interfaces with*
8 *such networks and the assessment of their openness*
9 *must be accomplished with due recognition that open*
10 *and accessible systems may include standards that in-*
11 *volve both nonproprietary and proprietary tech-*
12 *nologies;*

13 (7) *such identification and assessment must also*
14 *be accomplished with due recognition of the need for*
15 *owners and distributors of video programming and*
16 *information services to ensure system and signal secu-*
17 *rity and to prevent theft of service;*

18 (8) *whenever possible, standards in dynamic in-*
19 *dustries such as interactive systems are best set by the*
20 *marketplace or by private sector standard-setting bod-*
21 *ies; and*

22 (9) *the role of the Commission in this regard*
23 *is—*

24 (A) *to identify, in consultation with indus-*
25 *try groups, consumer interests, and independent*

1 *experts, critical interfaces with such networks (i)*
2 *to ensure that end users can connect information*
3 *devices to such networks, and (ii) to ensure that*
4 *information service providers are able to trans-*
5 *mit information to end users, and*

6 *(B) as necessary, to take steps to ensure*
7 *these networks and services are accessible to a*
8 *broad range of equipment manufactures, infor-*
9 *mation providers, and program suppliers.*

10 *(b) INQUIRY REQUIRED.—Within 6 months after the*
11 *date of the enactment of this Act, the Commission shall com-*
12 *mence an inquiry—*

13 *(1) to examine the impact of the convergence of*
14 *technologies on cable, telephone, satellite, and wireless*
15 *and other communications technologies likely to offer*
16 *interactive communications services;*

17 *(2) to ascertain the importance of maintaining*
18 *open and accessible systems in interactive commu-*
19 *nications services;*

20 *(3) to examine the costs and benefits of main-*
21 *taining varying levels of interoperability between and*
22 *among interactive communications services;*

23 *(4) to examine the costs and benefits of establish-*
24 *ing open interfaces (A) between the network provider*
25 *and the set-top box or other interactive communica-*

1 *tions devices used in the home or office, and (B) be-*
2 *tween network providers and information service pro-*
3 *viders, and to determine how best to establish such*
4 *interfaces;*

5 *(5) to determine methods by which converter*
6 *boxes or other interactive communications devices*
7 *may be sold through retailers and other third party*
8 *vendors and to determine the vendors' responsibilities*
9 *for ensuring that their devices are interoperable with*
10 *interactive networks;*

11 *(6) to assess how the security of cable, satellite,*
12 *and other interactive systems or its service can con-*
13 *tinue to be ensured with the establishment of an inter-*
14 *face between the network and a converter box or other*
15 *interactive communications device, including those*
16 *manufactured and distributed at retail by entities*
17 *independent of network providers and information*
18 *service providers, and to determine the responsibilities*
19 *of such independent entities for assuring network se-*
20 *curity and for conforming to signal interference*
21 *standards;*

22 *(7) to ascertain the conditions necessary to en-*
23 *sure that any critical interface is available to infor-*
24 *mation and content providers and others who seek to*
25 *design, build, and distribute interoperable devices for*

1 *these networks so as to ensure network access and fair*
2 *competition for independent information providers*
3 *and consumers;*

4 *(8) to assess the impact of the deployment of dig-*
5 *ital technologies on individuals with disabilities, with*
6 *particular emphasis on any regulatory, policy, or de-*
7 *sign barriers which would limit functionally equiva-*
8 *lent access by such individuals;*

9 *(9) to assess current regulation of telephone,*
10 *cable, satellite, and other communications delivery*
11 *systems to ascertain how best to ensure interoper-*
12 *ability between those systems;*

13 *(10) to assess the adequacy of current regulation*
14 *of telephone, cable, satellite, and other communica-*
15 *tions delivery systems with respect to bundling of*
16 *equipment and services and to identify any changes*
17 *in unbundling regulations necessary to assure effec-*
18 *tive competition and encourage technological innova-*
19 *tion, consistent with the finding in subsection (a)(6)*
20 *and the objectives of paragraph (6) of this subsection,*
21 *in the market for converter boxes or interactive com-*
22 *munications devices and for other customer premises*
23 *equipment;*

24 *(11) to solicit comment on any changes in the*
25 *Commission's regulations that are necessary to ensure*

1 *that diversity, competition, and technological innova-*
2 *tion are promoted in communications services and*
3 *equipment; and*

4 *(12) to prepare recommendations to the Congress*
5 *for any legislative changes required.*

6 *(c) REPORT TO CONGRESS.—Within 12 months after*
7 *the date of the enactment of this Act, the Commission shall*
8 *submit to the Congress a report on the results of the inquiry*
9 *required by subsection (b). Within 6 months after the date*
10 *of submission of such report, the Commission shall prescribe*
11 *such changes in its regulations as the Commission deter-*
12 *mines are necessary pursuant to subsection (b)(10).*

13 *(d) PRESERVATION OF EXISTING AUTHORITY.—Noth-*
14 *ing in this section shall be construed as limiting, supersed-*
15 *ing, or otherwise modifying the existing authority and re-*
16 *sponsibilities of the Commission or National Institute of*
17 *Standards and Technology.*

18 **SEC. 206. VIDEO PROGRAMMING ACCESSIBILITY.**

19 *(a) INQUIRY REQUIRED.—Within 180 days after the*
20 *date of enactment of this section, the Federal Communica-*
21 *tions Commission shall complete an inquiry to ascertain*
22 *the level at which video programming is closed captioned.*
23 *Such inquiry shall examine the extent to which existing or*
24 *previously published programming is closed captioned, the*
25 *size of the video programming provider or programming*

1 owner providing closed captioning, the size of the market
2 served, the relative audience shares achieved, or any other
3 related factors. The Commission shall submit to the Con-
4 gress a report on the results of such inquiry.

5 (b) *CONTENTS OF REGULATIONS.*—Within 18 months
6 after the date of enactment, the Commission shall prescribe
7 such regulations as are necessary to implement this section.
8 Such regulations shall ensure that—

9 (1) video programming first published or exhib-
10 ited after the effective date of such regulations is fully
11 accessible through the provision of closed captions, ex-
12 cept as provided in subsection (d); and

13 (2) video programming providers or owners
14 maximize the accessibility of video programming first
15 published or exhibited prior to the effective date of
16 such regulations through the provision of closed cap-
17 tions, except as provided in subsection (d).

18 (c) *CONTENTS OF REGULATIONS.*—Such regulations
19 shall include an appropriate schedule of deadlines for the
20 provision of closed captioning of video programming.

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

22 (1) the Commission may exempt by regulation
23 programs, classes of programs, or services for which
24 the Commission has determined that the provision of

1 *close captioning would be economically burdensome to*
2 *the provider or owner of such programming;*

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

11 (3) *a provider of video programming or program*
12 *owner may petition the Commission for an exemption*
13 *from the requirements of this section, and the Com-*
14 *mission may grant such petition upon a showing that*
15 *the requirements contained in this section would re-*
16 *sult in an undue burden.*

17 (e) *UNDUE BURDEN.*—*The term ‘undue burden’ means*
18 *significant difficulty or expense. In determining whether the*
19 *closed captions necessary to comply with the requirements*
20 *of this paragraph would result in an undue economic bur-*
21 *den, the factors to be considered include—*

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

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

1 (3) *the financial resources of the provider or pro-*
2 *gram owner; and*

3 (4) *the type of operations of the provider or pro-*
4 *gram owner.*

5 (f) *ADDITIONAL PROCEEDING ON VIDEO DESCRIP-*
6 *TIONS REQUIRED.—Within 6 months after the date of en-*
7 *actment of this Act, the Commission shall commence an in-*
8 *quiry to examine the use of video descriptions on video pro-*
9 *gramming in order to ensure the accessibility of video pro-*
10 *gramming to persons with visual impairments, and report*
11 *to Congress on its findings. The Commission's report shall*
12 *assess appropriate methods and schedules for phasing video*
13 *descriptions into the marketplace, technical and quality*
14 *standards for video descriptions, a definition of program-*
15 *ming for which video descriptions would apply, and other*
16 *technical and legal issues that the Commission deems ap-*
17 *propriate. Following the completion of such inquiry, the*
18 *Commission may adopt regulation it deems necessary to*
19 *promote the accessibility of video programming to persons*
20 *with visual impairments.*

21 (g) *MODEL PROGRAM.—The National Telecommuni-*
22 *ications and Information Administration shall establish and*
23 *oversee, and (to the extent of available funds) provide finan-*
24 *cial support for, marketplace tests of video descriptions on*

1 *commercial and noncommercial video programming serv-*
2 *ices.*

3 *(h) VIDEO DESCRIPTION.—For purposes of this sec-*
4 *tion, “video description” means the insertion of audio nar-*
5 *rated descriptions of a television program’s key visual ele-*
6 *ments into natural pauses between the program’s dialogue.*

7 **SEC. 207. PUBLIC ACCESS.**

8 *Within one year after the date of enactment of this*
9 *Act, the Federal Communications Commission shall pre-*
10 *scribe regulations to reserve appropriate capacity for the*
11 *public at preferential rates on cable systems and video plat-*
12 *forms.*

13 **SEC. 208. AUTOMATED SHIP DISTRESS AND SAFETY SYS-**
14 **TEMS.**

15 *Notwithstanding any provision of the Communica-*
16 *tions Act of 1934, a ship documented under the laws of the*
17 *United States operating in accordance with the Global Mar-*
18 *itime Distress and Safety System provisions of the Safety*
19 *of Life at Sea Convention shall not be required to be*
20 *equipped with a radio station operated by one or more*
21 *radio officers or operators.*

22 **SEC. 209. CABLE TECHNICAL STANDARDS REVIEW.**

23 *Within one year after the date of enactment of this*
24 *Act, the Commission shall review its standards under sec-*
25 *tions 624(e) and 624A of the Communications Act of 1934*

1 (47 U.S.C. 544, 544a) to determine whether such standards
2 may be revised to ensure that neither the video program-
3 ming, nor the accompanying audio signal, of any program-
4 ming that is provided on a per channel or per program
5 basis is able to be presented on the television receivers of
6 subscribers unless the subscriber has requested that pro-
7 gramming, whether or not that subscriber uses a converter
8 or other device provided by the cable operator.

9 **SEC. 210. EXCLUSIVE FEDERAL JURISDICTION OVER DI-**
10 **RECT BROADCAST SATELLITE SERVICE.**

11 Section 303 of the Communications Act of 1934 (47
12 U.S.C. 303) is amended by adding at the end thereof the
13 following new subsection:

14 “(v) Have exclusive jurisdiction over the regulation of
15 the direct broadcast satellite service.”.

16 **TITLE III—PROCUREMENT PRAC-**
17 **TICES OF TELECOMMUNI-**
18 **CATIONS PROVIDERS**

19 **SEC. 301. FINDINGS.**

20 The Congress finds the following:

21 (1) It is in the public interest for business enter-
22 prises owned by minorities and women to participate
23 in procurement contracts of all providers of tele-
24 communications services.

1 (2) *The opportunity for full participation in our*
2 *free enterprise system by business enterprises that are*
3 *owned by minorities and women is essential if this*
4 *Nation is to attain social and economic equality for*
5 *those businesses and improve the functioning of the*
6 *national economy.*

7 (3) *It is in this Nation's interest to expeditiously*
8 *improve the economically disadvantaged position of*
9 *business enterprises that are owned by minorities and*
10 *women.*

11 (4) *The position of these businesses can be im-*
12 *proved through the development by the providers of*
13 *telecommunications services of substantial long-range*
14 *and annual goals, which are supported by training*
15 *and technical assistance, for the purchase, to the max-*
16 *imum practicable extent, of technology, equipment,*
17 *supplies, services, material and construction from mi-*
18 *nority business enterprises.*

19 (5) *Procurement policies which include partici-*
20 *pation of business enterprises that are owned by mi-*
21 *norities and women also benefit the communication*
22 *industry and its consumers by encouraging the ex-*
23 *pansion of the numbers of suppliers for procurement,*
24 *thereby encouraging competition among suppliers and*
25 *promoting economic efficiency in the process.*

1 **SEC. 302. PURPOSE.**

2 *The purposes of this title are—*

3 *(1) to encourage and foster greater economic op-*
4 *portunity for business enterprises that are owned by*
5 *minorities and women;*

6 *(2) to promote competition among suppliers to*
7 *providers of telecommunications services and their af-*
8 *filiates to enhance economic efficiency in the procure-*
9 *ment of telephone corporation contracts and contracts*
10 *of their State commission-regulated subsidiaries and*
11 *affiliates;*

12 *(3) to clarify and expand a program for the pro-*
13 *curement by State and federally-regulated telephone*
14 *companies of technology, equipment, supplies, serv-*
15 *ices, materials and construction work from business*
16 *enterprises that are owned by minorities and women;*
17 *and*

18 *(4) to ensure that a fair proportion of the total*
19 *purchases, contracts, and subcontracts for supplies,*
20 *commodities, technology, property, and services of-*
21 *fered by the providers of telecommunications services*
22 *and their affiliates are awarded to minority and*
23 *women business enterprises.*

24 **SEC. 303. ANNUAL PLAN SUBMISSION.**

25 *(a) ANNUAL PLANS REQUIRED.—*

1 (1) *IN GENERAL.*—*The Commission shall require*
2 *each provider of telecommunications services to sub-*
3 *mit annually a detailed and verifiable plan for in-*
4 *creasing its procurement from business enterprises*
5 *that are owned by minorities or women in all cat-*
6 *egories of procurement in which minorities are under*
7 *represented.*

8 (2) *CONTENTS OF PLANS.*—*The annual plans re-*
9 *quired by paragraph (1) shall include (but not be*
10 *limited to) short- and long-term progressive goals and*
11 *timetables, technical assistance, and training and*
12 *shall, in addition to goals for direct contracting op-*
13 *portunities, include methods for encouraging both*
14 *prime contractors and grantees to engage business en-*
15 *terprises that are owned by minorities and women in*
16 *subcontracts in all categories in which minorities are*
17 *under represented.*

18 (3) *IMPLEMENTATION REPORT.*—*Each provider*
19 *of telecommunications services shall furnish an an-*
20 *annual report to the Commission regarding the imple-*
21 *mentation of programs established pursuant to this*
22 *title in such form as the Commission shall require,*
23 *and at such time as the Commission shall annually*
24 *designate.*

1 (4) *REPORT TO CONGRESS.*—*The Commission*
2 *shall provide an annual report to Congress, beginning*
3 *in January 1995, on the progress of activities under-*
4 *taken by each provider of telecommunications services*
5 *regarding the implementation of activities pursuant*
6 *to this title to develop business enterprises that are*
7 *owned by minorities or women. The report shall*
8 *evaluate the accomplishments under this title and*
9 *shall recommend a program for enhancing the policy*
10 *declared in this title, together with such recommenda-*
11 *tions for legislation as it deems necessary or desirable*
12 *to further that policy.*

13 (b) *REGULATIONS AND CRITERIA FOR DETERMINING*
14 *ELIGIBILITY OF MINORITY BUSINESS ENTERPRISES FOR*
15 *PROCUREMENT CONTRACTS.*—

16 (1) *IN GENERAL.*—*The Commission shall estab-*
17 *lish regulations for implementing programs pursuant*
18 *to this title that will govern providers of telecommuni-*
19 *cations services and their affiliates.*

20 (2) *VERIFYING CRITERIA.*—*The Commission*
21 *shall develop and publish regulations setting forth cri-*
22 *teria for verifying and determining the eligibility of*
23 *business enterprises that are owned by minorities or*
24 *women for procurement contracts.*

1 (3) *OUTREACH.*—*The Commission’s regulations*
2 *shall require each provider of telecommunications*
3 *services and its affiliates to develop and to implement*
4 *an outreach program to inform and recruit business*
5 *enterprises that are owned by minorities or women to*
6 *apply for procurement contracts under this title.*

7 (4) *ENFORCEMENT.*—*The Commission shall es-*
8 *tablish and promulgate such regulations necessary to*
9 *enforce the provisions of this title.*

10 (c) *WAIVER AUTHORITY.*—*The requirements of this*
11 *section may be waived, in whole or in part, by the Commis-*
12 *sion with respect to a particular contract or subcontract*
13 *in accordance with guidelines set forth in regulations which*
14 *the Commission shall prescribe when it determines that the*
15 *application of such regulations prove to result in undue*
16 *hardship or unreasonable expense to a provider of tele-*
17 *communications services.*

18 **SEC. 304. SANCTIONS AND REMEDIES.**

19 (a) *FALSE REPRESENTATION OF BUSINESSES; SANC-*
20 *TIONS.*—

21 (1) *IN GENERAL.*—*Any person or corporation,*
22 *through its directors, officers, or agent, which falsely*
23 *represents the business as a business enterprise that*
24 *are owned by minorities or women in the procure-*
25 *ment or attempt to procure contracts from telephone*

1 *operating companies and their affiliates pursuant to*
2 *this article, shall be punished by a fine of not more*
3 *than \$5,000, or by imprisonment for a period not to*
4 *exceed 5 years of its directors, officers, or agents re-*
5 *sponsible for the false statements, or by both fine and*
6 *imprisonment.*

7 (2) *HOLDING COMPANIES.*—*Any provider of tele-*
8 *communications services which falsely represents its*
9 *annual report to the Commission or its implementa-*
10 *tion of its programs pursuant to this section shall be*
11 *subject to a fine of \$100,000 and be subject to a pen-*
12 *alty of up to 5 years restriction from participation*
13 *in lines of business activities provided for in this*
14 *title.*

15 (b) *INDEPENDENT CAUSE OF ACTION, REMEDIES, AND*
16 *ATTORNEY FEES.*—

17 (1) *DISCRIMINATION PROHIBITED.*—*No otherwise*
18 *qualified business enterprise that is owned by minori-*
19 *ties or women shall solely, by reason of its racial, eth-*
20 *nic, or gender composition be excluded from the par-*
21 *ticipation in, be denied the benefits of, or be subjected*
22 *to discrimination in procuring contracts from tele-*
23 *phone utilities.*

24 (2) *CIVIL ACTIONS AUTHORIZED.*—*Whenever a*
25 *qualified business enterprise that is owned by minori-*

1 *ties or women has reasonable cause to believe that a*
2 *provider of telecommunications services or its affiliate*
3 *is engaged in a pattern or practice of resistance to the*
4 *full compliance of any provision of this title, the busi-*
5 *ness enterprise may bring a civil action in the appro-*
6 *priate district court of the United States against the*
7 *provider of telecommunications services or its affiliate*
8 *requesting such monetary or injunctive relief, or both,*
9 *as deemed necessary to ensure the full benefits of this*
10 *title.*

11 (3) *ATTORNEYS' FEES AND COSTS.*—*In any ac-*
12 *tion or proceeding to enforce or charge of a violation*
13 *of a provision of this title, the court, in its discretion,*
14 *may allow the prevailing party reasonable attorneys'*
15 *fees and costs.*

16 **SEC. 305. DEFINITIONS.**

17 *For the purpose of this title, the following definitions*
18 *apply:*

19 (1) *The term “business enterprise owned by mi-*
20 *norities or women” means—*

21 (A) *a business enterprise that is at least 51*
22 *percent owned by a person or persons who are*
23 *minority persons or women; or*

24 (B) *in the case of any publicly owned busi-*
25 *ness, at least 51 percent of the stock of which is*

1 *owned by one or more persons who are minority*
2 *persons or women, and whose management and*
3 *daily business operations are controlled by one*
4 *or more of those persons.*

5 (2) *The term “minority person” means persons*
6 *who are Black Americans, Hispanic Americans, Na-*
7 *tive Americans, Asian Americans, and Pacific Ameri-*
8 *cans.*

9 (3) *The term “control” means exercising the*
10 *power to make financial and policy decisions.*

11 (4) *The term “operate” means the active involve-*
12 *ment in the day-to-day management of the business*
13 *and not merely being officers or directors.*

14 (5) *The term “Commission” means the Federal*
15 *Communications Commission.*

16 (6) *The term “telecommunications service” has*
17 *the meaning provided in section 3(mm) of the Com-*
18 *munications Act of 1934 (as added by this Act).*

19 **TITLE IV—FEDERAL COMMU-**
20 **NICATIONS COMMISSION RE-**
21 **SOURCES**

22 **SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

23 (a) *IN GENERAL.*—*In addition to any other sums au-*
24 *thorized by law, there are authorized to be appropriated to*
25 *the Federal Communications Commission such sums as*

1 *may be necessary to carry out this Act and the amendments*
2 *made by this Act.*

3 (b) *EFFECT ON FEES.—For purposes of section*
4 *9(b)(2), additional amounts appropriated pursuant to sub-*
5 *section (a) shall be construed to be changes in the amounts*
6 *appropriated for the performance of activities described in*
7 *section 9(a).*

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