AUTHENTICATED
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In the House of Representatives, U. S.,

October 12, 1995.

Resolved, That the bill from the Senate (S. 652) entitled ''An Act to provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes'', do pass with the following

AMENDMENTS:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CON-***
2 ***TENTS.***

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

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

7 *(c) TABLE OF CONTENTS.—*

Sec. 1. Short title; references; table of contents.

TITLE I—DEVELOPMENT OF COMPETITIVE TELECOMMUNICATIONS MARKETS

Sec. 101. Establishment of part II of title II.

''PART II—DEVELOPMENT OF COMPETITIVE MARKETS

''Sec. 241. Interconnection.
''Sec. 242. Equal access and interconnection to the local loop for competing providers.
''Sec. 243. Removal of barriers to entry.
''Sec. 244. Statements of terms and conditions for access and interconnection.
''Sec. 245. Bell operating company entry into interLATA services.
''Sec. 246. Competitive safeguards.
''Sec. 247. Universal service.
''Sec. 248. Pricing flexibility and abolition of rate-of-return regulation.
''Sec. 249. Network functionality and accessibility.
''Sec. 250. Market entry barriers.
''Sec. 251. Illegal changes in subscriber carrier selections.
''Sec. 252. Study.''.
Sec. 102. Competition in manufacturing, information services, alarm services, and pay phone services.

''PART III—SPECIAL AND TEMPORARY PROVISIONS

''Sec. 271. Manufacturing by Bell operating companies.
''Sec. 272. Electronic publishing by Bell operating companies.
''Sec. 273. Alarm monitoring and telemessaging services by Bell operating companies.
''Sec. 274. Provision of payphone service.''.
Sec. 103. Forbearance from regulation.
''Sec. 230. Protection for private blocking and screening of offensive material; FCC regulation of computer services prohibited.''.
Sec. 104. Online family empowerment.
Sec. 105. Privacy of customer information.
''Sec. 222. Privacy of customer proprietary network information.''.
Sec. 106. Pole attachments.
Sec. 107. Preemption of franchising authority regulation of telecommunications services.
Sec. 108. Facilities siting; radio frequency emission standards.
Sec. 109. Mobile service access to long distance carriers.
Sec. 110. Freedom from toll fraud.
Sec. 111. Report on means of restricting access to unwanted material in interactive telecommunications systems.
Sec. 112. Telecommunications development fund.
''Sec. 10. Telecommunication development fund.''.
Sec. 113. Report on the use of advanced telecommunications services for medical purposes.
Sec. 114. Telecommuting public information program.
Sec. 115. Authorization of appropriations.

TITLE II—CABLE COMMUNICATIONS COMPETITIVENESS

Sec. 201. Cable service provided by telephone companies.

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

''Sec. 651. Definitions.
''Sec. 652. Separate video programming affiliate.
''Sec. 653. Establishment of video platform.

''Sec. 654. Authority to prohibit cross-subsidization.
''Sec. 655. Prohibition on buy outs.
''Sec. 656. Applicability of parts I through IV.
''Sec. 657. Rural area exemption.''.
Sec. 202. Competition from cable systems.
Sec. 203. Competitive availability of navigation devices.
''Sec. 713. Competitive availability of navigation devices.''.
Sec. 204. Video programming accessibility.
Sec. 205. Technical amendments.

TITLE III—BROADCAST COMMUNICATIONS COMPETITIVENESS

Sec. 301. Broadcaster spectrum flexibility.
''Sec. 336. Broadcast spectrum flexibility.''.
Sec. 302. Broadcast ownership.
''Sec. 337. Broadcast ownership.''.
Sec. 303. Foreign investment and ownership.
Sec. 304. Family viewing empowerment.
Sec. 305. Parental choice in television programming.
Sec. 306. Term of licenses.
Sec. 307. Broadcast license renewal procedures.
Sec. 308. Exclusive Federal jurisdiction over direct broadcast satellite service.
Sec. 309. Automated ship distress and safety systems.
Sec. 310. Restrictions on over-the-air reception devices.
Sec. 311. DBS signal security.
Sec. 312. Delegation of equipment testing and certification to private laboratories.

TITLE IV—EFFECT ON OTHER LAWS

Sec. 401. Relationship to other laws.
Sec. 402. Preemption of local taxation with respect to DBS services.
Sec. 403. Protection of minors and clarification of current laws regarding communication of obscene and indecent materials through the use of computers.

TITLE V—DEFINITIONS

Sec. 501. Definitions.

TITLE VI—SMALL BUSINESS COMPLAINT PROCEDURE

Sec. 601. Complaint procedure.

TITLE I—DEVELOPMENT OF COMPETITIVE TELECOMMUNICATIONS MARKETS

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

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

"PART II—DEVELOPMENT OF COMPETITIVE MARKETS

"SEC. 241. INTERCONNECTION.

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

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

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

''(1) INTERCONNECTION.—The duty to provide, in accordance with subsection (b), equal access to and interconnection with the facilities of the carrier's networks to any other carrier or person offering (or seeking to offer) telecommunications services or information services reasonably requesting such equal access

and interconnection, so that such networks are fully interoperable with such telecommunications services and information services. For purposes of this paragraph, a request is not reasonable unless it contains a proposed plan, including a reasonable schedule, for the implementation of the requested access or interconnection.

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

"(3) RESALE.—The duty—

(A) to offer services, elements, features, functions, and capabilities for resale at wholesale rates, and

(B) not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of such services, elements, features, functions, and capabilities, on a bundled or unbundled basis, except that a carrier may prohibit a reseller that obtains at wholesale rates a service, element, feature, function, or capability that is available at retail only to a category of subscribers from offering such service,

element, feature, function, or capability to a different category of subscribers.

For the purposes of this paragraph, wholesale rates shall be determined on the basis of retail rates for the service, element, feature, function, or capability provided, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that are avoided by the local exchange carrier.

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

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

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

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

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

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

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

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

"(A) IN GENERAL.—For the purposes of paragraph (1), the terms and conditions for interconnection of the network facilities of a competing provider of telephone exchange service

shall not be considered to be just and reasonable unless—

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

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

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

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

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

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

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

"(A) to databases, signaling systems, billing and collection services, poles, ducts, conduits, and rights-of-way owned or controlled by a local exchange carrier, or other facilities, functions, or information (including subscriber numbers) integral to the efficient transmission, routing, or other provision of telephone exchange services or exchange access;

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

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

"(4) COMMISSION ACTION REQUIRED.—

"(A) IN GENERAL.—Within 6 months after the date of enactment of this part, the Commission shall complete all actions necessary (including any reconsideration) to establish regulations to implement the requirements of this section. The Commission shall establish such regulations after consultation with the Joint Board established pursuant to section 247.

"(B) ACCOMMODATION OF STATE ACCESS REGULATIONS.—In prescribing and enforcing regulations to implement the requirements of this section, the Commission shall not preclude the enforcement of any regulation, order, or policy of a State commission that—

"(i) establishes access and interconnection obligations of local exchange carriers;

"(ii) is consistent with the requirements of this section; and

"(iii) does not substantially prevent the Commission from fulfilling the require-

ments of this section and the purposes of this part.

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

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

"(E) IMPUTED CHARGES TO CARRIER.—Such regulations shall require the carrier, to the extent it provides a telecommunications service or an information service that requires access or interconnection to its network facilities, to im-

pute such access and interconnection charges to itself.

"(c) NUMBER PORTABILITY AND DIALING PARITY.—

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

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

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

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

"(d) JOINT MARKETING OF RESOLD ELEMENTS.—

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

"(2) COMPETING PROVIDERS.—Paragraph (1) shall not prohibit joint marketing of services, elements, features, functions, or capabilities acquired from a Bell operating company by an unaffiliated provider that, together with its affiliates, has in the aggregate less than 2 percent of the access lines installed nationwide.

"(e) MODIFICATIONS AND WAIVERS.—The Commission may modify or waive the requirements of this section for any local exchange carrier (or class or category of such carriers) that has, in the aggregate nationwide, fewer than 500,000 access lines installed, to the extent that the Commission determines that compliance with such requirements (without such modification) would be unduly economically burdensome or technologically infeasible.

"(f) EXEMPTION FOR CERTAIN RURAL TELEPHONE COMPANIES.—Subsections (a) through (d) of this section shall not apply to a rural telephone company, until such company has received a bona fide request for services, elements, features or capabilities described in subsections (a) through (d). Following a bona fide request to the carrier and notice of the request to the State commission, the State commission shall determine within 120 days whether the request would be unduly economically burdensome, be technologically infeasible, and be consistent with subsections (b)(1) through (b)(5), (c)(1), and (c)(3) of section 247. The exemption provided by this subsection shall not apply if such carrier provides video programming services over its telephone exchange facilities in its telephone service area.

"(g) TIME AND MANNER OF COMPLIANCE.—The State shall establish, after determining pursuant to subsection (f) that a bona fide request is not economically burdensome, is technologically feasible, and is consistent with subsections (b)(1) through (b)(5), (c)(1), and (c)(3) of section 247, an implementation schedule for compliance with such approved bona fide request that is consistent in time and manner with Commission rules.

"(h) AVOIDANCE OF REDUNDANT REGULATIONS.—

"(1) COMMISSION REGULATIONS.—Nothing in this section shall be construed to prohibit the Commis-

sion from enforcing regulations prescribed prior to the date of enactment of this part in fulfilling the requirements of this section, to the extent that such regulations are consistent with the provisions of this section.

"(2) STATE REGULATIONS.—Nothing in this section shall be construed to prohibit any State commission from enforcing regulations prescribed prior to the date of enactment of this part, or from prescribing regulations after such date of enactment, in fulfilling the requirements of this section, if (A) such regulations are consistent with the provisions of this section, and (B) the enforcement of such regulations has not been precluded under subsection (b)(4)(B).

"SEC. 243. REMOVAL OF BARRIERS TO ENTRY.

(a) IN GENERAL.—No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide interstate or intrastate telecommunications services.

(b) STATE AND LOCAL AUTHORITY.—Nothing in this section shall affect the ability of a State or local government to impose, on a competitively neutral basis and consistent with section 247 (relating to universal service), requirements necessary to preserve and advance universal service,

protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

(c) LOCAL GOVERNMENT AUTHORITY.—Nothing in this Act affects the authority of a local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of the rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government.

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

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

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

tures, functions, or capabilities shall be filed with the Commission.

"(b) REVIEW.—

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

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

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

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

"(c) TIME FOR REVIEW.—

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

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

"(B) permit such statement to take effect.

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

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

interconnection. The approval of a statement under this section shall not operate to prohibit a carrier from entering into subsequent agreements that contain terms and conditions that differ from those contained in a statement that has been reviewed and approved under this section, but—

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

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

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

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

"(a) VERIFICATION OF ACCESS AND INTERCONNECTION COMPLIANCE.—At any time after 6 months after the date of enactment of this part, a Bell operating company may

provide to the Commission verification by such company with respect to one or more States that such company is in compliance with the requirements of this part. Such verification shall contain the following:

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

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

"(A) PRESENCE OF A FACILITIES-BASED COMPETITOR.—An agreement that has been approved under section 244 specifying the terms and conditions under which the Bell operating company is providing access and interconnection to its network facilities in accordance with section 242 for the network facilities of an unaffiliated competing provider of telephone exchange service (as defined in section 3(44)(A), but excluding exchange access service) to residential and business subscribers. For the purpose of this subparagraph, such telephone exchange service may be offered by such competing provider either exclusively over its own telephone exchange serv-

ice facilities or predominantly over its own telephone exchange service facilities in combination with the resale of the services of another carrier. For the purpose of this subparagraph, services provided pursuant to subpart K of part 22 of the Commission's regulations (47 C.F.R. 22.901 et seq.) shall not be considered to be telephone exchange services.

"(B) FAILURE TO REQUEST ACCESS.—If no such provider has requested such access and interconnection before the date which is 3 months before the date the company makes its submission under this subsection, a statement of the terms and conditions that the carrier generally offers to provide such access and interconnection that has been approved or permitted to take effect by the State commission under section 244.

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

agreement by failure to comply, within a reasonable period of time, with the implementation schedule contained in such agreement.

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

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

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

"(3) RESALE.—The Bell operating company offers services, elements, features, functions, and capa-

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

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

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

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

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

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

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

"(c) COMMISSION REVIEW.—

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

"(2) DE NOVO REVIEW.—If—

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

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

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

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

"(3) CONSULTATION WITH THE ATTORNEY GENERAL.—The Commission shall notify the Attorney General promptly of any verification submitted for approval under this subsection, and shall identify any verification that, if approved, would relieve the Bell operating company and its affiliates of the prohibition concerning manufacturing contained in section 271(a). Before making any determination under this subsection, the Commission shall consult with the Attorney General, and if the Attorney General submits any comments in writing, such comments shall be included in the record of the Commission's deci-

sion. In consulting with and submitting comments to the Commission under this paragraph, the Attorney General shall provide to the Commission an evaluation of whether there is a dangerous probability that the Bell operating company or its affiliates would successfully use market power to substantially impede competition in the market such company seeks to enter. In consulting with and submitting comments to the Commission under this paragraph with respect to a verification that, if approved, would relieve the Bell operating company and its affiliates of the prohibition concerning manufacturing contained in section 271(a), the Attorney General shall also provide to the Commission an evaluation of whether there is a dangerous probability that the Bell operating company or its affiliates would successfully use market power to substantially impede competition in manufacturing.

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

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

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

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

"(d) ENFORCEMENT OF CONDITIONS.—

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

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

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

"(C) suspend or revoke such approval.

"(2) RECEIPT AND REVIEW OF COMPLAINTS.—The Commission shall establish procedures for the re-

view of complaints concerning failures by Bell operating companies to meet conditions required to be certified under subsection (b). Unless the parties otherwise agree, the Commission shall act on such complaint within 90 days.

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

"(e) AUTHORITY TO PROVIDE INTERLATA SERVICES.—

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

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

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

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

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

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

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

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

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

"(B) providing the capability for interaction by such subscribers to select or respond to such audio

programming, video programming, or other programming services; or

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

"(2) providing a telecommunications service, using the transmission facilities of a cable system that is an affiliate of such company, and that is located within a State in which such company is not, on the date of the enactment of this part, a provider of wireline telephone exchange service;

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

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

"(5) providing signaling information used in connection with the provision of telephone exchange

services to a local exchange carrier that, together with any affiliated local exchange carriers, has aggregate annual revenues of less than $100,000,000; or

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

"(h) OUT-OF-REGION SERVICES.—When a Bell operating company and its affiliates have obtained Commission approval under subsection (c) for each State in which such Bell operating company and its affiliates provide telephone exchange service on the date of enactment of this part, such Bell operating company and any affiliate thereof may, notwithstanding subsection (e), provide interLATA services—

"(1) for calls originating in, and billed to a customer in, a State in which neither such company nor any affiliate provided telephone exchange service on such date of enactment; or

"(2) for calls originating outside the United States.

"(i) INTRALATA TOLL DIALING PARITY.—Neither the Commission nor any State may order any Bell operating company to provide dialing parity for intraLATA tele-

phone toll service in any State before the date such company is authorized to provide interLATA services in such State pursuant to this section.

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

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

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

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

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

"(3) OTHER PROGRAMMING SERVICES.—The term 'other programming services' means information (other than audio programming or video programming) that the person who offers a video programming service makes available to all subscribers gen-

erally. For purposes of the preceding sentence, the terms 'information' and 'makes available to all subscribers generally' have the same meaning such terms have under section 602(13) of this Act.

"SEC. 246. COMPETITIVE SAFEGUARDS.

"(a) IN GENERAL.—In accordance with the requirements of this section and the regulations adopted thereunder, a Bell operating company or any affiliate thereof providing any interLATA telecommunications or interLATA information service, shall do so through a subsidiary that is separate from the Bell operating company or any affiliate thereof that provides telephone exchange service. The requirements of this section shall not apply with respect to (1) activities in which a Bell operating company or affiliate may engage pursuant to section 245(f), or (2) incidental services in which a Bell operating company or affiliate may engage pursuant to section 245(g), other than services described in paragraph (4) of such section.

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

crimination in favor of the subsidiary arising out of the subsidiary's affiliation with such company.

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

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

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

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

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

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

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

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

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

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

of providing such telephone exchange services and exchange access); and

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

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

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

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

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

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

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

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

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

"(j) CHARGES FOR ACCESS SERVICES.—A Bell operating company or an affiliate thereof shall charge the subsidiary required by this section an amount for telephone exchange services, exchange access, and other necessary associ-

ated inputs no less than the rate charged to any unaffiliated entity for such access and inputs.

"(k) SUNSET.—The provisions of this section shall cease to apply to any Bell operating company in any State 18 months after the date such Bell operating company is authorized pursuant to section 245(c) to provide interLATA telecommunications services in such State.

"SEC. 247. UNIVERSAL SERVICE.

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

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

"(1) JUST AND REASONABLE RATES.—A plan adopted by the Commission and the States should ensure the continued viability of universal service by

maintaining quality services at just and reasonable rates.

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

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

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

"(5) EDUCATIONAL ACCESS TO ADVANCED TELECOMMUNICATIONS SERVICES.—To the extent that a common carrier establishes advanced telecommunications services, such plan should include rec-

ommendations to ensure access to advanced telecommunications services for students in elementary and secondary schools.

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

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

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

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

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

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

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

"(d) REPORT; COMMISSION RESPONSE.—The Joint Board convened pursuant to subsection (a) shall report its recommendations within 6 months after the date of enactment of this part. The Commission shall complete any proceeding to act upon such recommendations and to comply with the principles set forth in subsection (b) within one year after such date of enactment.

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

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

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

"(a) PRICING FLEXIBILITY.—

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

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

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

In establishing criteria and procedures pursuant to this paragraph, the Commission shall take into account and accommodate, to the extent reasonable and consistent with the purposes of this section, the criteria and procedures established for such purposes by State commissions prior to the effective date of the Commission's criteria and procedures under this section.

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

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

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

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

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

"(4) RESPONSE TO COMPETITION.—Pricing flexibility implemented pursuant to this subsection shall permit regulated telecommunications providers to respond fairly to competition by repricing services subject to competition, but shall not have the effect of changing prices for noncompetitive services or using noncompetitive services to subsidize competitive services.

"(b) ABOLITION OF RATE-OF-RETURN REGULATION.—Notwithstanding any other provision of law, to the extent

that a carrier has complied with sections 242 and 244 of this part, the Commission, with respect to rates for interstate or foreign communications, and State commissions, with respect to rates for intrastate communications, shall not require rate-of-return regulation.

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

"(1) regulate the prices for such service;

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

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

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

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

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

requirements of this subsection shall not apply to any rural telephone company if the rates for basic voice-grade local telephone service of that company are not subject to regulation by a State commission on the date of enactment of this part.

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

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

"(g) AVOIDANCE OF REDUNDANT REGULATIONS.—

"(1) COMMISSION REGULATIONS.—Nothing in this section shall be construed to prohibit the Commission from enforcing regulations prescribed prior to the date of enactment of this part in fulfilling the requirements of this section, to the extent that such regulations are consistent with the provisions of this section.

"(2) STATE REGULATIONS.—Nothing in this section shall be construed to prohibit any State commission from enforcing regulations prescribed prior to the effective date of the Commission's criteria and proce-

dures under this section in fulfilling the requirements of this section, or from prescribing regulations after such date, to the extent such regulations are consistent—

"(A) with the provisions of this section; and

"(B) after such effective date, with such criteria and procedures.

"SEC. 249. NETWORK FUNCTIONALITY AND ACCESSIBILITY.

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

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

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

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

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

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

"(c) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES.—

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

disabilities and interested equipment and service providers to ensure their concerns and interests are given full consideration in such process.

"(2) COMPATIBILITY.—Such regulations shall require that whenever the requirements of paragraph (1) are not readily achievable, the local exchange carrier that deploys the network service shall ensure that the network service in question is compatible with existing peripheral devices or specialized customer premises equipment commonly used by persons with disabilities to achieve access, unless doing so is not readily achievable.

"(3) READILY ACHIEVEABLE.—The term 'readily achievable' has the meaning given it by section 301(g) of the Americans with Disabilities Act 1990 (42 U.S.C. 12102(g)).

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

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

"SEC. 250. MARKET ENTRY BARRIERS.

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

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

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

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

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

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

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

"(b) LIABILITY FOR CHARGES.—Any common carrier that violates the verification procedures described in subsection (a) and that collects charges for telephone exchange service or telephone toll service from a subscriber shall be liable to the carrier previously selected by the subscriber in an amount equal to all charges paid by such subscriber after such violation, in accordance with such procedures as the Commission may prescribe. The remedies provided by this subsection are in addition to any other remedies available by law.

"SEC. 252. STUDY.

"Within 3 years after the date of enactment of this part, the Commission shall conduct a study that—

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

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

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

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

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

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

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

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

"PART I—REGULATION OF DOMINANT COMMON CARRIERS".

(d) SYLISTIC CONSISTENCY.—The Act is amended so that—

(1) the designation and heading of each title of the Act shall be in the form and typeface of the designation and heading of this title of this Act; and

(2) the designation and heading of each part of each title of the Act shall be in the form and typeface of the designation and heading of part I of title II of the Act, as amended by subsection (c).

(e) CONFORMING AMENDMENTS.—

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

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

SEC. 102. COMPETITION IN MANUFACTURING, INFORMATION SERVICES, ALARM SERVICES, AND PAYPHONE SERVICES.

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

"PART III—SPECIAL AND TEMPORARY PROVISIONS

"SEC. 271. MANUFACTURING BY BELL OPERATING COMPANIES.

"(a) LIMITATIONS ON MANUFACTURING.—

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

"(2) SEPARATE SUBSIDIARY REQUIRED.—During the first 18 months after the expiration of the limitation contained in paragraph (1), a Bell operating company may engage in manufacturing telecommuni-

cations equipment or customer premises equipment only through a separate subsidiary established and operated in accordance with section 246.

"(b) COLLABORATION; RESEARCH AND ROYALTY AGREEMENTS.—

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

"(2) RESEARCH; ROYALTY AGREEMENTS.—Subsection (a) shall not prohibit a Bell operating company, directly or through an subsidiary, from—

"(A) engaging in any research activities related to manufacturing, and

"(B) entering into royalty agreements with manufacturers of telecommunications equipment.

"(c) INFORMATION REQUIREMENTS.—

"(1) INFORMATION ON PROTOCOLS AND TECHNICAL REQUIREMENTS.—Each Bell operating company shall, in accordance with regulations prescribed by the Commission, maintain and file with the Commission full and complete information with respect to

the protocols and technical requirements for connection with and use of its telephone exchange service facilities. Each such company shall report promptly to the Commission any material changes or planned changes to such protocols and requirements, and the schedule for implementation of such changes or planned changes.

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

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

"(4) PLANNING INFORMATION.—Each Bell operating company shall provide, to contiguous common carriers providing telephone exchange service, timely

information on the planned deployment of telecommunications equipment.

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

"(1) APPLICATION TO BELL COMMUNICATIONS RESEARCH OR MANUFACTURERS.—Bell Communications Research, Inc., or any successor entity or affiliate—

"(A) shall not be considered a Bell operating company or a successor or assign of a Bell operating company at such time as it is no longer an affiliate of any Bell operating company; and

"(B) notwithstanding paragraph (3), shall not engage in manufacturing telecommunications equipment or customer premises equipment as long as it is an affiliate of more than 1 otherwise unaffiliated Bell operating company or successor or assign of any such company.

Nothing in this subsection prohibits Bell Communications Research, Inc., or any successor entity, from engaging in any activity in which it is lawfully engaged on the date of enactment of this subsection. Nothing provided in this subsection shall render Bell Communications Research, Inc., or any successor en-

tity, a common carrier under title II of this Act. Nothing in this section restricts any manufacturer from engaging in any activity in which it is lawfully engaged on the date of enactment of this section.

"(2) PROPRIETARY INFORMATION.—Any entity which establishes standards for telecommunications equipment or customer premises equipment, or generic network requirements for such equipment, or certifies telecommunications equipment, or customer premises equipment, shall be prohibited from releasing or otherwise using any proprietary information, designated as such by its owner, in its possession as a result of such activity, for any purpose other than purposes authorized in writing by the owner of such information, even after such entity ceases to be so engaged.

"(3) MANUFACTURING SAFEGUARDS.—(A) Except as prohibited in paragraph (1), and subject to paragraph (6), any entity which certifies telecommunications equipment or customer premises equipment manufactured by an unaffiliated entity shall only manufacture a particular class of telecommunications equipment or customer premises equipment for which it is undertaking or has undertaken, during the previous 18 months, certification

activity for such class of equipment through a separate affiliate.

"(B) Such separate affiliate shall—

"(i) maintain books, records, and accounts separate from those of the entity that certifies such equipment, consistent with generally acceptable accounting principles;

"(ii) not engage in any joint manufacturing activities with such entity; and

"(iii) have segregated facilities and separate employees with such entity.

"(C) Such entity that certifies such equipment shall—

"(i) not discriminate in favor of its manufacturing affiliate in the establishment of standards, generic requirements, or product certification;

"(ii) not disclose to the manufacturing affiliate any proprietary information that has been received at any time from an unaffiliated manufacturer, unless authorized in writing by the owner of the information; and

"(iii) not permit any employee engaged in product certification for telecommunications equipment or customer premises equipment to

engage jointly in sales or marketing of any such equipment with the affiliated manufacturer.

"(4) STANDARD-SETTING ENTITIES.—Any entity which is not an accredited standards development organization and which establishes industry-wide standards for telecommunications equipment or customer premises equipment, or industry-wide generic network requirements for such equipment, or which certifies telecommunications equipment or customer premises equipment manufactured by an unaffiliated entity, shall—

"(A) establish and publish any industry-wide standard for, industry-wide generic requirement for, or any substantial modification of an existing industry-wide standard or industry-wide generic requirement for, telecommunications equipment or customer premises equipment only in compliance with the following procedure:

"(i) such entity shall issue a public notice of its consideration of a proposed industry-wide standard or industry-wide generic requirement;

"(ii) such entity shall issue a public invitation to interested industry parties to

fund and participate in such efforts on a reasonable and nondiscriminatory basis, administered in such a manner as not to unreasonably exclude any interested industry party;

''(iii) such entity shall publish a text for comment by such parties as have agreed to participate in the process pursuant to clause (ii), provide such parties a full opportunity to submit comments, and respond to comments from such parties;

''(iv) such entity shall publish a final text of the industry-wide standard or industry-wide generic requirement, including the comments in their entirety, of any funding party which requests to have its comments so published; and

''(v) such entity shall attempt, prior to publishing a text for comment, to agree with the funding parties as a group on a mutually satisfactory dispute resolution process which such parties shall utilize as their sole recourse in the event of a dispute on technical issues as to which there is disagreement between any funding party and the

entity conducting such activities, except that if no dispute resolution process is agreed to by all the parties, a funding party may utilize the dispute resolution procedures established pursuant to paragraph (5) of this subsection;

''(B) engage in product certification for telecommunications equipment or customer premises equipment manufactured by unaffiliated entities only if—

''(i) such activity is performed pursuant to published criteria;

''(ii) such activity is performed pursuant to auditable criteria; and

''(iii) such activity is performed pursuant to available industry-accepted testing methods and standards, where applicable, unless otherwise agreed upon by the parties funding and performing such activity;

''(C) not undertake any actions to monopolize or attempt to monopolize the market for such services; and

''(D) not preferentially treat its own telecommunications equipment or customer premises equipment, or that of its affiliate, over that of

any other entity in establishing and publishing industry-wide standards or industry-wide generic requirements for, and in certification of, telecommunications equipment and customer premises equipment.

"(5) ALTERNATE DISPUTE RESOLUTION.—Within 90 days after the date of enactment of this section, the Commission shall prescribe a dispute resolution process to be utilized in the event that a dispute resolution process is not agreed upon by all the parties when establishing and publishing any industry-wide standard or industry-wide generic requirement for telecommunications equipment or customer premises equipment, pursuant to paragraph (4)(A)(v). The Commission shall not establish itself as a party to the dispute resolution process. Such dispute resolution process shall permit any funding party to resolve a dispute with the entity conducting the activity that significantly affects such funding party's interests, in an open, nondiscriminatory, and unbiased fashion, within 30 days after the filing of such dispute. Such disputes may be filed within 15 days after the date the funding party receives a response to its comments from the entity conducting the activity. The Commission shall establish penalties to be assessed for delays

caused by referral of frivolous disputes to the dispute resolution process. The overall intent of establishing this dispute resolution provision is to enable all interested funding parties an equal opportunity to influence the final resolution of the dispute without significantly impairing the efficiency, timeliness, and technical quality of the activity.

"(6) SUNSET.—The requirements of paragraphs (3) and (4) shall terminate for the particular relevant activity when the Commission determines that there are alternative sources of industry-wide standards, industry-wide generic requirements, or product certification for a particular class of telecommunications equipment or customer premises equipment available in the United States. Alternative sources shall be deemed to exist when such sources provide commercially viable alternatives that are providing such services to customers. The Commission shall act on any application for such a determination within 90 days after receipt of such application, and shall receive public comment on such application.

"(7) ADMINISTRATION AND ENFORCEMENT AUTHORITY.—For the purposes of administering this subsection and the regulations prescribed thereunder, the Commission shall have the same remedial author-

ity as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier subject to this Act.

"(8) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'affiliate' shall have the same meaning as in section 3 of this Act, except that, for purposes of paragraph (1)(B)—

"(i) an aggregate voting equity interest in Bell Communications Research, Inc., of at least 5 percent of its total voting equity, owned directly or indirectly by more than 1 otherwise unaffiliated Bell operating company, shall constitute an affiliate relationship; and

"(ii) a voting equity interest in Bell Communications Research, Inc., by any otherwise unaffiliated Bell operating company of less than 1 percent of Bell Communications Research's total voting equity shall not be considered to be an equity interest under this paragraph.

"(B) The term 'generic requirement' means a description of acceptable product attributes for use by local exchange carriers in establishing

product specifications for the purchase of telecommunications equipment, customer premises equipment, and software integral thereto.

"(C) The term 'industry-wide' means activities funded by or performed on behalf of local exchange carriers for use in providing wireline local exchange service whose combined total of deployed access lines in the United States constitutes at least 30 percent of all access lines deployed by telecommunications carriers in the United States as of the date of enactment.

"(D) The term 'certification' means any technical process whereby a party determines whether a product, for use by more than one local exchange carrier, conforms with the specified requirements pertaining to such product.

"(E) The term 'accredited standards development organization' means an entity composed of industry members which has been accredited by an institution vested with the responsibility for standards accreditation by the industry.

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

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

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

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

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

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

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

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

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

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

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

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

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

affiliate or electronic publishing joint venture operated in accordance with this section from engaging in the provision of electronic publishing.

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

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

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

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

"(4) value any assets that are transferred directly or indirectly from the Bell operating company to a separated affiliate or joint venture, and record any transactions by which such assets are transferred,

in accordance with such regulations as may be prescribed by the Commission or a State commission to prevent improper cross subsidies;

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

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

''(B) own no property in common;

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

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

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

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

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

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

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

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

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

"(c) JOINT MARKETING.—

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

"(A) a Bell operating company shall not carry out any promotion, marketing, sales, or

advertising for or in conjunction with a separated affiliate; and

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

"(2) PERMISSIBLE JOINT ACTIVITIES.—

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

"(B) TEAMING ARRANGEMENTS.—A Bell operating company may engage in nondiscriminatory teaming or business arrangements to engage in electronic publishing with any separated affiliate or with any other electronic publisher if (i) the Bell operating company only provides fa-

cilities, services, and basic telephone service information as authorized by this section, and (ii) the Bell operating company does not own such teaming or business arrangement.

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

revenue share, or voting control but not to exceed 80 percent. A Bell operating company participating in an electronic publishing joint venture may provide promotion, marketing, sales, or advertising personnel and services to such joint venture.

"(d) BELL OPERATING COMPANY REQUIREMENT.—A Bell operating company under common ownership or control with a separated affiliate or electronic publishing joint venture shall provide network access and interconnections for basic telephone service to electronic publishers at just and reasonable rates that are tariffed (so long as rates for such services are subject to regulation) and that are not higher on a per-unit basis than those charged for such services to any other electronic publisher or any separated affiliate engaged in electronic publishing.

"(e) PRIVATE RIGHT OF ACTION.—

"(1) DAMAGES.—Any person claiming that any act or practice of any Bell operating company, affiliate, or separated affiliate constitutes a violation of this section may file a complaint with the Commission or bring suit as provided in section 207 of this Act, and such Bell operating company, affiliate, or separated affiliate shall be liable as provided in section 206 of this Act; except that damages may not

be awarded for a violation that is discovered by a compliance review as required by subsection (b)(7) of this section and corrected within 90 days.

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

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

"(g) EFFECTIVE DATES.—

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

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

"(h) DEFINITION OF ELECTRONIC PUBLISHING.—

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

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

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

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

"(C) The transmission of information as part of a gateway to an information service that does not involve the generation or alteration of the content of information, including data trans-

mission, address translation, protocol conversion, billing management, introductory information content, and navigational systems that enable users to access electronic publishing services, which do not affect the presentation of such electronic publishing services to users.

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

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

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

"(G) Language translation or data format conversion.

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

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

"(J) Caller identification services.

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

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

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

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

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

"(i) ADDITIONAL DEFINITIONS.—As used in this section—

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

"(2) The term 'basic telephone service' means any wireline telephone exchange service, or wireline telephone exchange service facility, provided by a Bell

operating company in a telephone exchange area, except that such term does not include—

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

"(B) a commercial mobile service.

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

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

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

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

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

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

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

"(10) The term 'Bell operating company' has the meaning provided in section 3, except that such term includes any entity or corporation that is owned or controlled by such a company (as so defined) but does

not include an electronic publishing joint venture owned by such an entity or corporation.

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

"(a) DELAYED ENTRY INTO ALARM MONITORING.—

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

"(2) EXISTING ACTIVITIES.—Paragraph (1) shall not apply to any provision of alarm monitoring services in which a Bell operating company or affiliate is lawfully engaged as of January 1, 1995.

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

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

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

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

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

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

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

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

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

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

"SEC. 274. PROVISION OF PAYPHONE SERVICE.

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

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

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

"(b) REGULATIONS.—

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

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

"(B) discontinue the intrastate and interstate carrier access charge payphone service elements and payments in effect on the date of en-

actment of this section, and all intrastate and interstate payphone subsidies from basic exchange and exchange access revenues, in favor of a compensation plan as specified in subparagraph (A);

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

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

with the location provider, to select and contract with the carriers that carry intraLATA calls from their payphones.

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

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

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

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

SEC. 103. FORBEARANCE FROM REGULATION.

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

"SEC. 230. FORBEARANCE FROM REGULATION.

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

"(1) enforcement of such provision or regulation is necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that carrier or service are just and reasonable and are not unjustly or unreasonably discriminatory;

"(2) enforcement of such regulation or provision is not necessary for the protection of consumers; or

"(3) forbearance from applying such provision or regulation is inconsistent with the public interest.

"(b) COMPETITIVE EFFECT TO BE WEIGHED.—In making the determination under subsection (a)(3), the Commission shall consider whether forbearance from enforcing the provision or regulation will promote competitive market conditions, including the extent to which such forbearance

will enhance competition among providers of telecommunications services. If the Commission determines that such forbearance will promote competition among providers of telecommunications services, that determination may be the basis for a Commission finding that forbearance is in the public interest.

"(c) COMMERCIAL MOBILE SERVICE JOINT MARKETING.—Notwithstanding section 22.903 of the Commission's regulations (47 C.F.R. 22.903) or any other Commission regulation, or any judicial decree or proposed judicial decree, a Bell operating company or any other company may, except as provided in sections 242(d) and 246 as they relate to wireline service, jointly market and sell commercial mobile services in conjunction with telephone exchange service, exchange access, intraLATA telecommunications service, interLATA telecommunications service, and information services.".

SEC. 104. ONLINE FAMILY EMPOWERMENT.

Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

"SEC. 230. PROTECTION FOR PRIVATE BLOCKING AND SCREENING OF OFFENSIVE MATERIAL; FCC REGULATION OF COMPUTER SERVICES PROHIBITED.

"(a) FINDINGS.—The Congress finds the following:

"(1) The rapidly developing array of Internet and other interactive computer services available to individual Americans represent an extraordinary advance in the availability of educational and informational resources to our citizens.

"(2) These services offer users a great degree of control over the information that they receive, as well as the potential for even greater control in the future as technology develops.

"(3) The Internet and other interactive computer services offer a forum for a true diversity of political discourse, unique opportunities for cultural development, and myriad avenues for intellectual activity.

"(4) The Internet and other interactive computer services have flourished, to the benefit of all Americans, with a minimum of government regulation.

"(5) Increasingly Americans are relying on interactive media for a variety of political, educational, cultural, and entertainment services.

"(b) POLICY.—It is the policy of the United States to—

"(1) promote the continued development of the Internet and other interactive computer services and other interactive media;

"(2) preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by State or Federal regulation;

"(3) encourage the development of technologies which maximize user control over the information received by individuals, families, and schools who use the Internet and other interactive computer services;

"(4) remove disincentives for the development and utilization of blocking and filtering technologies that empower parents to restrict their children's access to objectionable or inappropriate online material; and

"(5) ensure vigorous enforcement of criminal laws to deter and punish trafficking in obscenity, stalking, and harassment by means of computer.

"(c) PROTECTION FOR 'GOOD SAMARITAN' BLOCKING AND SCREENING OF OFFENSIVE MATERIAL.—No provider or user of interactive computer services shall be treated as the publisher or speaker of any information provided by an information content provider. No provider or user of

interactive computer services shall be held liable on account of—

"(1) any action voluntarily taken in good faith to restrict access to material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected; or

"(2) any action taken to make available to information content providers or others the technical means to restrict access to material described in paragraph (1).

"(d) FCC REGULATION OF THE INTERNET AND OTHER INTERACTIVE COMPUTER SERVICES PROHIBITED.—Nothing in this Act shall be construed to grant any jurisdiction or authority to the Commission with respect to content or any other regulation of the Internet or other interactive computer services.

"(e) EFFECT ON OTHER LAWS.—

"(1) NO EFFECT ON CRIMINAL LAW.—Nothing in this section shall be construed to impair the enforcement of section 223 of this Act, chapter 71 (relating to obscenity) or 110 (relating to sexual exploitation of children) of title 18, United States Code, or any other Federal criminal statute.

"(2) NO EFFECT ON INTELLECTUAL PROPERTY LAW.—Nothing in this section shall be construed to limit or expand any law pertaining to intellectual property.

"(3) IN GENERAL.—Nothing in this section shall be construed to prevent any State from enforcing any State law that is consistent with this section.

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

"(1) INTERNET.—The term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

"(2) INTERACTIVE COMPUTER SERVICE.—The term 'interactive computer service' means any information service that provides computer access to multiple users via modem to a remote computer server, including specifically a service that provides access to the Internet.

"(3) INFORMATION CONTENT PROVIDER.—The term 'information content provider' means any person or entity that is responsible, in whole or in part, for the creation or development of information provided by the Internet or any other interactive computer service, including any person or entity that creates or develops blocking or screening software or

other techniques to permit user control over offensive material.

"(4) INFORMATION SERVICE.—The term 'information service' means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.".

SEC. 105. PRIVACY OF CUSTOMER INFORMATION.

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

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

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

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

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

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

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

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

"(D) disclose customer proprietary network information to any person except to the extent

necessary to permit such person to provide services or products that are used in and necessary to the provision by such carrier of the services described in subparagraph (A);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

except that such term does not include subscriber list information.

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

"(A) identifying the listed names of subscribers of a carrier and such subscribers' tele-

phone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and

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

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

(b) CONVERGING COMMUNICATIONS TECHNOLOGIES AND CONSUMER PRIVACY.—

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 106. POLE ATTACHMENTS.

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

(1) in subsection (a)(4)—

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

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

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

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

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

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

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

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

"(C) recognize that the pole, duct, conduit, or right-of-way has a value that exceeds costs and that value shall be reflected in any rate; and

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

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

by the pole attachment by the sum of the operating expenses and actual capital costs of the utility attributable to the entire pole, duct, conduit, or right-of-way.

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

SEC. 107. PREEMPTION OF FRANCHISING AUTHORITY REGULATION OF TELECOMMUNICATIONS SERVICES.

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

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

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

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

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

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

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

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

''(D) Except as otherwise permitted by sections 611 and 612, a franchising authority may not require a cable operator to provide any telecommunications service or facilities, other than intragovernmental telecommunications services, as a condition of the initial grant of a franchise or a franchise renewal.''.

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

SEC. 108. FACILITIES SITING; RADIO FREQUENCY EMISSION STANDARDS.

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

''(7) FACILITIES SITING POLICIES.—(A) Within 180 days after enactment of this paragraph, the Commission shall prescribe and make effective a policy to reconcile State and local regulation of the siting of facilities for the provision of commercial mobile services or unlicensed services with the public interest in fostering competition through the rapid, efficient, and nationwide deployment of commercial mobile services or unlicensed services.

''(B) Pursuant to subchapter III of chapter 5, title 5, United States Code, the Commission shall establish a negotiated rulemaking committee to negotiate and develop a proposed policy to comply with the requirements of this paragraph. Such committee shall include representatives from State and local gov-

ernments, affected industries, and public safety agencies.

"(C) The policy prescribed pursuant to this subparagraph shall take into account—

"(i) the need to enhance the coverage and quality of commercial mobile services and unlicensed services and foster competition in the provision of commercial mobile services and unlicensed services on a timely basis;

"(ii) the legitimate interests of State and local governments in matters of exclusively local concern, and the need to provide State and local government with maximum flexibility to address such local concerns, while ensuring that such interests do not prohibit or have the effect of precluding any commercial mobile service or unlicensed service;

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

"(iv) the administrative costs to State and local governments of reviewing requests for authorization to locate facilities for the provision of commercial mobile services or unlicensed services; and

"(v) the need to provide due process in making any decision by a State or local government or instrumentality thereof to grant or deny a request for authorization to locate, construct, modify, or operate facilities for the provision of commercial mobile services or unlicensed services.

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

"(E) The proceeding to prescribe such policy pursuant to this paragraph shall supercede any proceeding pending on the date of enactment of this paragraph relating to preemption of State and local regulation of tower siting for commercial mobile services, unlicensed services, and providers thereof. In accordance with subchapter III of chapter 5, title 5, United States Code, the Commission shall periodically establish a negotiated rulemaking committee to review the policy prescribed by the Commission under

this paragraph and to recommend revisions to such policy.

''(F) For purposes of this paragraph, the term 'unlicensed service' means the offering of telecommunications using duly authorized devices which do not require individual licenses.''.

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

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

use of the property, rights-of-way, and easements in question. Reasonable fees may be charged to providers of such telecommunications services for use of property, rights-of-way, and easements. The Commission shall provide technical support to States to encourage them to make property, rights-of-way, and easements under their jurisdiction available for such purposes.

SEC. 109. MOBILE SERVICE ACCESS TO LONG DISTANCE CARRIERS.

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

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

phone toll service through the use of carrier identification codes assigned to each such provider.

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

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

SEC. 110. FREEDOM FROM TOLL FRAUD.

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

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

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

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

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

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

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

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

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

"(ii) the information provider's name;

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

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

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

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

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

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

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

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

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

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

"(C) USE OF PIN'S TO PREVENT UNAUTHORIZED USE.—A written agreement does not meet the requirements of this paragraph unless it provides the subscriber a personal identification

number to obtain access to the information provided, and includes instructions on its use.

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

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

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

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

"(9) CHARGES BY CREDIT, PREPAID, OR CALLING CARD IN ABSENCE OF AGREEMENT.—For purposes of paragraph (7)(C)(ii), a calling party is not charged in accordance with this paragraph unless the calling party is charged by means of a credit, prepaid, or calling card and the information service provider in-

cludes in response to each call an introductory disclosure message that—

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

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

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

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

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

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

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

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

SEC. 111. REPORT ON MEANS OF RESTRICTING ACCESS TO UNWANTED MATERIAL IN INTERACTIVE TELECOMMUNICATIONS SYSTEMS.

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

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

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

(3) an evaluation of the technical means available—

(A) to enable parents to exercise control over the information that their children receive by

interactive telecommunications systems so that children may avoid violent, sexually explicit, harassing, offensive, and other unwanted material on such systems;

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

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

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

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

SEC. 112. TELECOMMUNICATIONS DEVELOPMENT FUND.

(a) DEPOSIT AND USE OF AUCTION ESCROW ACCOUNTS.—Section 309(j)(8) of the Act (47 U.S.C. 309(j)(8)) is amended by adding at the end the following new subparagraph:

"(C) DEPOSIT AND USE OF AUCTION ESCROW ACCOUNTS.—Any deposits the Commission may require for the qualification of any person to bid in a system of competitive bidding pursuant to this subsection shall be deposited in an interest bearing account at a financial institution designated for purposes of this subsection by the Commission (after consultation with the Secretary of the Treasury). Within 45 days following the conclusion of the competitive bidding—

"(i) the deposits of successful bidders shall be paid to the Treasury;

"(ii) the deposits of unsuccessful bidders shall be returned to such bidders; and

"(iii) the interest accrued to the account shall be transferred to the Telecommunications Development Fund established pursuant to section 10 of this Act.".

(b) ESTABLISHMENT AND OPERATION OF FUND.—Title I of the Act is amended by adding at the end the following new section:

"SEC. 10. TELECOMMUNICATIONS DEVELOPMENT FUND.

"(a) PURPOSE OF SECTION.—It is the purpose of this section—

"(1) to promote access to capital for small businesses in order to enhance competition in the telecommunications industry;

"(2) to stimulate new technology development, and promote employment and training; and

"(3) to support universal service and promote delivery of telecommunications services to underserved rural and urban areas.

"(b) ESTABLISHMENT OF FUND.—There is hereby established a body corporate to be known as the Telecommunications Development Fund, which shall have succession until dissolved. The Fund shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof.

"(c) BOARD OF DIRECTORS.—

"(1) COMPOSITION OF BOARD; CHAIRMAN.—The Fund shall have a Board of Directors which shall consist of 7 persons appointed by the Chairman of the Commission. Four of such directors shall be representative of the private sector and three of such directors shall be representative of the Commission, the Small Business Administration, and the Department of the

Treasury, respectively. The Chairman of the Commission shall appoint one of the representatives of the private sector to serve as chairman of the Fund within 30 days after the date of enactment of this section, in order to facilitate rapid creation and implementation of the Fund. The directors shall include members with experience in a number of the following areas: finance, investment banking, government banking, communications law and administrative practice, and public policy.

"(2) TERMS OF APPOINTED AND ELECTED MEMBERS.—The directors shall be eligible to serve for terms of 5 years, except of the initial members, as designated at the time of their appointment—

"(A) 1 shall be eligible to service for a term of 1 year;

"(B) 1 shall be eligible to service for a term of 2 years;

"(C) 1 shall be eligible to service for a term of 3 years;

"(D) 2 shall be eligible to service for a term of 4 years; and

"(E) 2 shall be eligible to service for a term of 5 years (1 of whom shall be the Chairman).

Directors may continue to serve until their successors have been appointed and have qualified.

"(3) MEETINGS AND FUNCTIONS OF THE BOARD.—The Board of Directors shall meet at the call of its Chairman, but at least quarterly. The Board shall determine the general policies which shall govern the operations of the Fund. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the officers of the Fund and shall discharge all such functions, powers, and duties.

"(d) ACCOUNTS OF THE FUND.—The Fund shall maintain its accounts at a financial institution designated for purposes of this section by the Chairman of the Board (after consultation with the Commission and the Secretary of the Treasury). The accounts of the Fund shall consist of—

"(1) interest transferred pursuant to section 309(j)(8)(C) of this Act;

"(2) such sums as may be appropriated to the Commission for advances to the Fund;

"(3) any contributions or donations to the Fund that are accepted by the Fund; and

"(4) any repayment of, or other payment made with respect to, loans, equity, or other extensions of credit made from the Fund.

"(e) USE OF THE FUND.—All moneys deposited into the accounts of the Fund shall be used solely for—

"(1) the making of loans, investments, or other extensions of credits to eligible small businesses in accordance with subsection (f);

"(2) the provision of financial advise to eligible small businesses;

"(3) expenses for the administration and management of the Fund;

"(4) preparation of research, studies, or financial analyses; and

"(5) other services consistent with the purposes of this section.

"(f) LENDING AND CREDIT OPERATIONS.—Loans or other extensions of credit from the Fund shall be made available to eligible small business on the basis of—

"(1) the analysis of the business plan of the eligible small business;

"(2) the reasonable availability of collateral to secure the loan or credit extension;

"(3) the extent to which the loan or credit extension promotes the purposes of this section; and

"(4) other lending policies as defined by the Board.

"(g) RETURN OF ADVANCES.—Any advances appropriated pursuant to subsection (b)(2) shall be upon such terms and conditions (including conditions relating to the time or times of repayment) as the Board determines will best carry out the purposes of this section, in light of the maturity and solvency of the Fund.

"(h) GENERAL CORPORATE POWERS.—The Fund shall have power—

"(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

"(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

"(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

"(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

"(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and

with any property, real, personal, or mixed, or any interest therein, wherever situated;

"(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Fund;

"(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

"(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them, and fix the penalty thereof; and

"(9) to enter into contracts, to execute instruments, to incur liabilities, to make loans and equity investment, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

"(i) ACCOUNTING, AUDITING, AND REPORTING.—The accounts of the Fund shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants. A report of each such audit shall be furnished to the Secretary of the Treasury and the Commission. The representatives of the Secretary and the Commission shall have

access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Fund and necessary to facilitate the audit.

"(j) REPORT ON AUDITS BY TREASURY.—A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than 6 months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Fund, together with such recommendations with respect thereto as the Secretary may deem advisable.

"(k) DEFINITIONS.—As used in this section:

"(1) ELIGIBLE SMALL BUSINESS.—The term 'eligible small business' means business enterprises engaged in the telecommunications industry that have $50,000,000 or less in annual revenues, on average over the past 3 years prior to submitting the application under this section.

"(2) FUND.—The term 'Fund' means the Telecommunications Development Fund established pursuant to this section.

"(3) TELECOMMUNICATIONS INDUSTRY.—The term 'telecommunications industry' means communications businesses using regulated or unregulated facilities or services and includes the broadcasting, telephony, cable, computer, data transmission, software, programming, advanced messaging, and electronics businesses.".

SEC. 113. REPORT ON THE USE OF ADVANCED TELECOMMUNICATIONS SERVICES FOR MEDICAL PURPOSES.

The Assistant Secretary of Commerce for Communications and Information, in consultation with the Secretary of Health and Human Services and other appropriate departments and agencies, shall submit a report to the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate concerning the activities of the Joint Working Group on Telemedicine, together with any findings reached in the studies and demonstrations on telemedicine funded by the Public Health Service or other Federal agencies. The report shall examine questions related to patient safety, the efficacy and quality of the services provided, and other

legal, medical, and economic issues related to the utilization of advanced telecommunications services for medical purposes. The report shall be submitted to the respective Committees annually, by January 31, beginning in 1996.

SEC. 114. TELECOMMUTING PUBLIC INFORMATION PROGRAM.

(a) TELECOMMUTING RESEARCH PROGRAMS AND PUBLIC INFORMATION DISSEMINATION.—The Assistant Secretary of Commerce for Communications and Information, in consultation with the Secretary of Transportation, the Secretary of Labor, and the Administrator of the Environmental Protection Agency, shall, within three months of the date of enactment of this Act, carry out research to identify successful telecommuting programs in the public and private sectors and provide for the dissemination to the public of information regarding—

(1) the establishment of successful telecommuting programs; and

(2) the benefits and costs of telecommuting.

(b) REPORT.—Within one year of the date of enactment of this Act, the Assistant Secretary of Commerce for Communications and Information shall report to Congress the findings, conclusions, and recommendations regarding telecommuting developed under this section.

SEC. 115. AUTHORIZATION OF APPROPRIATIONS.

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

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

TITLE II—CABLE COMMUNICATIONS COMPETITIVENESS

SEC. 201. CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES.

(a) GENERAL REQUIREMENT.—

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

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

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

"(3)(A) Notwithstanding paragraphs (1) and (2), an affiliate described in subparagraph (B) shall not be subject to the requirements of part V (other than section 652), but—

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

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

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

"(i) is, consistently with section 655, owned, operated, or controlled by, or under common control

with, a common carrier subject in whole or in part to title II of this Act;

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

''(iii) has not established a video platform in accordance with section 653.''.

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

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

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

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

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

"PART V—VIDEO PROGRAMMING SERVICES PROVIDED BY TELEPHONE COMPANIES

"SEC. 651. DEFINITIONS.

''For purposes of this part—

''(1) the term 'control' means—

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

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

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

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

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

"SEC. 652. SEPARATE VIDEO PROGRAMMING AFFILIATE.

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

"(b) BOOKS AND MARKETING.—

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

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

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

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

"(2) INBOUND TELEMARKETING AND REFERRAL.—Notwithstanding paragraph (1)(B), a common carrier may provide telemarketing or referral services in response to the call of a customer or potential customer related to the provision of video programming by a video programming affiliate of such carrier. If such services are provided to a video programming affiliate, such services shall be made available to any video programmer or cable operator on request, on nondiscriminatory terms, at just and reasonable prices.

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

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

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

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

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

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

"(d) WAIVER.—

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

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

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

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

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

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

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

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

"SEC. 653. ESTABLISHMENT OF VIDEO PLATFORM.

"(a) VIDEO PLATFORM.—

"(1) IN GENERAL.—Except as provided in section 613(b)(3), any common carrier subject to title II of this Act, and that provides video programming directly to subscribers in its telephone service area, may establish a video platform. This paragraph shall not

apply to any carrier to the extent that it provides video programming directly to subscribers in its telephone service area solely through a cable system acquired in accordance with section 655(b).

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

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

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

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

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

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

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

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

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

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

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

"(B) continue to receive and grant, to the extent of available capacity, carriage in response

to bona fide requests for carriage from existing or additional video programming providers;

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

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

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

"(b) COMMISSION ACTIONS.—

"(1) IN GENERAL.—Within 6 months after the date of the enactment of this section, the Commission shall complete all actions necessary (including any reconsideration) to prescribe regulations that—

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

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

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

"(D) extend to the distribution of video programming over video platforms the Commission's regulations concerning sports exclusivity (47

C.F.R. 76.67), network nonduplication (47 C.F.R. 76.92 et seq.), and syndicated exclusivity (47 C.F.R. 76.151 et seq.);

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

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

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

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

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

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

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

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

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

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

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

"SEC. 655. PROHIBITION ON BUY OUTS.

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

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

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

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

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

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

"(3) obtain, with the concurrence of the cable operator on the rates, terms, and conditions, the use of that part of the transmission facilities of such a cable

system extending from the last multi-user terminal to the premises of the end user, if such use is reasonably limited in scope and duration, as determined by the Commission; or

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

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

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

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

''(D) the largest system in the television market is owned by or under common ownership

or control of any one of the 10 largest cable system operators as existed on May 1, 1995.

"(c) WAIVER.—

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

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

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

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

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

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

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

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

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

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

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

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

"(b) IMPLEMENTATION.—

"(1) COMMISSION ACTION.—The Commission shall prescribe regulations to ensure that a common carrier in the operation of its video platform shall provide (A) capacity, services, facilities, and equipment for public, educational, and governmental use, (B) capacity for commercial use, (C) carriage of commercial and non-commercial broadcast television stations, and (D) an opportunity for commercial broadcast stations to choose between mandatory carriage and reimbursement for retransmission of the signal of such station. In prescribing such regulations, the Commission shall, to the extent possible, impose obli-

gations that are no greater or lesser than the obligations contained in the provisions described in subsection (a)(2) of this section.

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

''SEC. 657. RURAL AREA EXEMPTION.

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

SEC. 202. COMPETITION FROM CABLE SYSTEMS.

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

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

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

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

(1) in paragraph (6)—

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

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

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

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

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

''(3) EQUIPMENT.—If the Commission finds that a cable system is subject to effective competition under subparagraph (D) of subsection (l)(1), the rates for

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

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

''(8) LIMITATION ON BASIC TIER RATE INCREASES; SCOPE OF REVIEW.—A cable operator may not increase its basic service tier rate more than once

every 6 months. Such increase may be implemented, using any reasonable billing or proration method, 30 days after providing notice to subscribers and the appropriate regulatory authority. The rate resulting from such increase shall be deemed reasonable and shall not be subject to reduction or refund if the franchising authority or the Commission, as appropriate, does not complete its review and issue a final order within 90 days after implementation of such increase. The review by the franchising authority or the Commission of any future increase in such rate shall be limited to the incremental change in such rate effected by such increase.''.

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

''(9) NATIONAL INFORMATION INFRASTRUCTURE.—

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

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

''(ii) enhance the competitiveness of the National Information Infrastructure by en-

suring that cable operators have incentives comparable to other industries to develop such infrastructure; and

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

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

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

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

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

"(3) REVIEW OF COMPLAINTS.—

"(A) COMPLAINT THRESHOLD.—The Commission shall have the authority to review any increase in the rates for cable programming services implemented after the date of enactment of the Communications Act of 1995 only if, within 90 days after such increase becomes effective, at least 10 subscribers to such services or 3 percent of the subscribers to such services, whichever is greater, file separate, individual complaints against such increase with the Commission in accordance with the requirements established under paragraph (1)(B).

"(B) TIME PERIOD FOR COMMISSION REVIEW.—The Commission shall complete its review of any such increase and issue a final order within 90 days after it receives the number of complaints required by subparagraph (A).

"(4) TREATMENT OF PENDING CABLE PROGRAMMING SERVICES COMPLAINTS.—Upon enactment of the

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) in subparagraph (B)(ii)—

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

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

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

(3) by adding at the end the following:

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

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

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

''(iii) 270 days have elapsed since the Commission has completed all actions necessary (including any reconsideration) to prescribe regulations pursuant to section 653(b)(1) relating to video platforms.''.

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

''(m) SMALL CABLE OPERATORS.—

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

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

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

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

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

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

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

necessary to prevent the unauthorized reception of such tier.''.

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

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

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

(2) in subsection (c)(1)—

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

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

''(A) the need to maximize open competition in the market for all features, functions, protocols, and other product and service options of

converter boxes and other cable converters unrelated to the descrambling or decryption of cable television signals;''; and

(3) in subsection (c)(2)—

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

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

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

(m) RETIERING OF BASIC TIER SERVICES.—Section 625(d) of the Act (47 U.S.C. 543(d)) is amended by adding at the end the following new sentence: ''Any signals or services carried on the basic service tier but not required under section 623(b)(7)(A) may be moved from the basic service tier at the operator's sole discretion, provided that the re-

moval of such a signal or service from the basic service tier is permitted by contract. The movement of such signals or services to an unregulated package of services shall not subject such package to regulation.''.

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

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

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

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

(o) TREATMENT OF PRIOR YEAR LOSSES.—

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

''(n) TREATMENT OF PRIOR YEAR LOSSES.—Notwithstanding any other provision of this section or of section

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

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

SEC. 203. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES.

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

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

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

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

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

"(b) COMPETITIVE CONSUMER AVAILABILITY OF CUSTOMER PREMISES EQUIPMENT.—The Commission shall adopt regulations to assure competitive availability, to consumers of telecommunications subscription services, of converter boxes, interactive communications devices, and other customer premises equipment from manufacturers, retailers, and other vendors not affiliated with any telecommunications system operator. Such regulations shall not prohibit any telecommunications system operator from also offering devices and customer premises equipment to consumers, provided that the system operator's charges to consumers for such devices and equipment are separately stated and not subsidized by charges for any telecommunications subscription service.

"(c) PROTECTION OF SYSTEM SECURITY.—The Commission shall not prescribe regulations pursuant to subsection (b) which would jeopardize the security of a telecommunications system or impede the legal rights of a provider of such service to prevent theft of service.

"(d) WAIVER FOR NEW NETWORK SERVICES.—The Commission shall waive a regulation adopted pursuant to subsection (b) for a limited time upon an appropriate show-

ing by a telecommunications system operator that such waiver is necessary to assist the development or introduction of a new or improved telecommunications subscription service or technology.

"(e) AVOIDANCE OF REDUNDANT REGULATIONS.—

"(1) MARKET COMPETITIVENESS DETERMINATIONS.—Determinations made or regulations prescribed by the Commission with respect to market competitiveness of customer premises equipment prior to the date of enactment of this section shall fulfill the requirements of this section.

"(2) REGULATIONS.—Nothing in this section affects the Commission's regulations governing the interconnection and competitive provision of customer premises equipment used in connection with basic telephone service.

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

SEC. 204. VIDEO PROGRAMMING ACCESSIBILITY.

(a) COMMISSION INQUIRY.—Within 180 days after the date of enactment of this section, the Federal Communications Commission shall complete an inquiry to ascertain

the level at which video programming is closed captioned. Such inquiry shall examine the extent to which existing or previously published programming is closed captioned, the size of the video programming provider or programming owner providing closed captioning, the size of the market served, the relative audience shares achieved, or any other related factors. The Commission shall submit to the Congress a report on the results of such inquiry.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) VIDEO DESCRIPTION.—For purposes of this section, ''video description'' means the insertion of audio nar-

rated descriptions of a television program's key visual elements into natural pauses between the program's dialogue.

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

SEC. 205. TECHNICAL AMENDMENTS.

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

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

(b) MARKET DETERMINATIONS.—Section 614(h)(1)(C)(i) of the Act (47 U.S.C. 534(h)(1)(C)(i)) is amended by striking out ''in the manner provided in section

73.3555(d)(3)(i) of title 47, Code of Federal Regulations, as in effect on May 1, 1991,'' and inserting ''by the Commission by regulation or order using, where available, commercial publications which delineate television markets based on viewing patterns,''.

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

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

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

TITLE III—BROADCAST COMMUNICATIONS COMPETITIVENESS

SEC. 301. BROADCASTER SPECTRUM FLEXIBILITY.

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

"SEC. 336. BROADCAST SPECTRUM FLEXIBILITY.

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

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

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

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

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

"(2) limit the broadcasting of ancillary or supplementary services on designated frequencies so as to avoid derogation of any advanced television services,

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

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

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

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

"(c) RECOVERY OF LICENSE.—

"(1) CONDITIONS REQUIRED.—If the Commission grants a license for advanced television services to a person that, as of the date of such issuance, is licensed to operate a television broadcast station or holds a permit to construct such a station (or both),

the Commission shall, as a condition of such license, require that, upon a determination by the Commission pursuant to the regulations prescribed under paragraph (2), either the additional license or the original license held by the licensee be surrendered to the Commission in accordance with such regulations for reallocation or reassignment (or both) pursuant to Commission regulation.

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

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

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

''(3) AUCTION OF RETURNED SPECTRUM.—Any license surrendered under the requirements of this

subsection shall be subject to assignment by use of competitive bidding pursuant to section 309(j), notwithstanding any limitations contained in paragraph (2) of such section.

"(d) FEES.—

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

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

"(B) for which the licensee directly or indirectly receives compensation from a third party in return for transmitting material furnished by such third party (other than commercial advertisements used to support broadcasting for which a subscription fee is not required),

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

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

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

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

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

"(3) TREATMENT OF REVENUES.—

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

"(B) RETENTION OF REVENUES.—Notwithstanding subparagraph (A), the salaries and ex-

penses account of the Commission shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by this section and regulating and supervising advanced television services. Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis.

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

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

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

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

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

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

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

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

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

proceedings described in paragraph (1) of this subsection.''.

SEC. 302. BROADCAST OWNERSHIP.

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

''SEC. 337. BROADCAST OWNERSHIP.

''(a) LIMITATIONS ON COMMISSION RULEMAKING AUTHORITY.—Except as expressly permitted in this section, and consistent with section 613(a) of the Act, the Commission shall not prescribe or enforce any regulation—

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

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

''(b) TELEVISION OWNERSHIP LIMITATIONS.—

''(1) NATIONAL AUDIENCE REACH LIMITATIONS.—The Commission shall prohibit a person or

entity from obtaining any license if such license would result in such person or entity directly or indirectly owning, operating, or controlling, or having a cognizable interest in, television stations which have an aggregate national audience reach exceeding 35 percent. Within 3 years after such date of enactment, the Commission shall conduct a study on the operation of this paragraph and submit a report to the Congress on the development of competition in the television marketplace and the need for any revisions to or elimination of this paragraph.

"(2) MULTIPLE LICENSES IN A MARKET.—

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

"(B) EXCEPTION FOR MULTIPLE UHF STATIONS AND FOR UHF-VHF COMBINATIONS.—Notwithstanding subparagraph (A), the Commission shall not prohibit a person or entity from directly or indirectly owning, operating, or controlling, or having a cognizable interest in, two

television stations within the same television market if at least one of such stations is a UHF television, unless the Commission determines that permitting such ownership, operation, or control will harm competition or will harm the preservation of a diversity of media voices in the local television market.

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

"(c) LOCAL CROSS-MEDIA OWNERSHIP LIMITS.—In a proceeding to grant, renew, or authorize the assignment of any station license under this title, the Commission may deny the application if the Commission determines that the combination of such station and more than one other nonbroadcast media of mass communication would result in an undue concentration of media voices in the respective

local market. In considering any such combination, the Commission shall not grant the application if all the media of mass communication in such local market would be owned, operated, or controlled by two or fewer persons or entities. This subsection shall not constitute authority for the Commission to prescribe regulations containing local cross-media ownership limitations. The Commission may not, under the authority of this subsection, require any person or entity to divest itself of any portion of any combination of stations and other media of mass communications that such person or entity owns, operates, or controls on the date of enactment of this section unless such person or entity acquires another station or other media of mass communications after such date in such local market.

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

on such date of enactment and that is in compliance with Commission regulations on such date.''.

SEC. 303. FOREIGN INVESTMENT AND OWNERSHIP.

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

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

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

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

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

to any alien (or representative thereof), corporation, or foreign government (or representative thereof) if—

"(A) the President determines—

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

"(ii) that not applying subsection (b) would be consistent with national security and effective law enforcement; or

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

"(2) COMMISSION CONSIDERATIONS.—In making its determination under paragraph (1), the Commission shall abide by any decision of the President whether application of section (b) is in the public interest due to national security, law enforcement, foreign policy or trade (including direct investment as it relates to international trade policy) concerns, or due to the interpretation of international agreements.

In the absence of a decision by the President, the Commission may consider, among other public interest factors, whether effective competitive opportunities are available to United States nationals or corporations in the applicant's home market. Upon receipt of an application that requires a determination under this paragraph, the Commission shall cause notice of the application to be given to the President or any agencies designated by the President to receive such notification. The Commission shall not make a determination under paragraph (1)(B) earlier than 30 days after the end of the pleading cycle or later than 180 days after the end of the pleading cycle.

"(3) FURTHER COMMISSION REVIEW.—The Commission may determine that, due to changed circumstances relating to United States national security or law enforcement, a prior determination under paragraph (1) ought to be reversed or altered. In making this determination, the Commission shall accord great deference to any recommendation of the President with respect to United States national security or law enforcement. If a determination under this paragraph is made then—

"(A) subsection (b) shall apply with respect to such aliens, corporation, and government (or

their representatives) on the date that the Commission publishes notice of its determination under this paragraph; and

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

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

"(5) MISCELLANEOUS.—Any Presidential decisions made under the provisions of this subsection shall not be subject to judicial review.".

(c) EFFECTIVE DATES.—The amendments made by this section shall not apply to any proceeding commenced before the date of enactment of this Act.

SEC. 304. FAMILY VIEWING EMPOWERMENT.

(a) FINDINGS.—The Congress makes the following findings:

(1) Television is pervasive in daily life and exerts a powerful influence over the perceptions of viewers, especially children, concerning the society in which we live.

(2) Children completing elementary school have been exposed to 25 or more hours of television per week and as many as 11 hours per day.

(3) Children completing elementary school have been exposed to an estimated average of 8,000 murders and 100,000 acts of violence on television.

(4) Studies indicate that the exposure of young children to such levels of violent programming correlates to an increased tendency toward and tolerance of violent and aggressive behavior in later years.

(5) Studies also suggest that the depiction of other material such as sexual conduct in a cavalier and amoral context may undermine the ability of parents to instill in their children responsible attitudes regarding such activities.

(6) Studies also suggest that a significant relationship exists between exposure to television violence and antisocial acts, including serious, violent criminal offenses.

(7) Parents and other viewers are increasingly demanding that they be empowered to make and implement viewing choices for themselves and their families.

(8) The public is becoming increasingly aware of and concerned about objectionable video programming content.

(9) The broadcast television industry and other video programmers have a responsibility to assess the impact of their work and to understand the damage that comes from the incessant, repetitive, mindless violence and irresponsible content.

(10) The broadcast television industry and other video programming distributors should be committed to facilitating viewers' access to the information and capabilities required to prevent the exposure of their children to excessively violent and otherwise objectionable and harmful video programming.

(11) The technology for implementing individual viewing choices is rapidly advancing and numerous options for viewer control are or soon will be available in the marketplace at affordable prices.

(12) There is a compelling national interest in ensuring that parents are provided with the information and capabilities required to prevent the exposure of their children to excessively violent and otherwise objectionable and harmful video programming.

(b) POLICY.—It is the policy of the United States to—

(1) encourage broadcast television, cable, satellite, syndication, other video programming distributors, and relevant related industries (in consultation with appropriate public interest groups and interested individuals from the private sector) to—

(A) establish a technology fund to encourage television and electronics equipment manufacturers to facilitate the development of technology which would empower parents to block programming they deem inappropriate for their children;

(B) report to the viewing public on the status of the development of affordable, easy to use blocking technology; and

(C) establish and promote effective procedures, standards, systems, advisories, or other mechanisms for ensuring that users have easy and complete access to the information necessary to effectively utilize blocking technology; and

(2) evaluate whether, not later than 1 year after the date of enactment of this Act, industry-wide procedures, standards, systems advisories, or other mechanisms established by the broadcast television, cable satellite, syndication, other video programming distribution, and relevant related industries—

(A) are informing viewers regarding their options to utilize blocking technology; and

(B) encouraging the development of blocking technologies.

(c) GAO AUDIT.—

(1) AUDIT REQUIRED.—No later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to Congress an evaluation of—

(A) the proliferation of new and existing blocking technology;

(B) the accessibility of information to empower viewing choices; and

(C) the consumer satisfaction with information and technological solutions.

(2) CONTENTS OF EVALUATION.—The evaluation shall—

(A) describe the blocking technology available to viewers including the costs thereof; and

(B) assess the extent of consumer knowledge and attitudes toward available blocking technologies;

(3) describe steps taken by broadcast, cable, satellite, syndication, and other video programming distribution services to inform the public and promote

the availability of viewer empowerment technologies, devices, and techniques;

(4) evaluate the degree to which viewer empowerment technology is being utilized;

(5) assess consumer satisfaction with technological options; and

(6) evaluate consumer demand for information and technological solutions.

SEC. 305. PARENTAL CHOICE IN TELEVISION PROGRAMMING.

(a) FINDINGS.—The Congress makes the following findings:

(1) Television influences children's perception of the values and behavior that are common and acceptable in society.

(2) Television station operators, cable television system operators, and video programmers should follow practices in connection with video programming that take into consideration that television broadcast and cable programming has established a uniquely pervasive presence in the lives of American children.

(3) The average American child is exposed to 25 hours of television each week and some children are exposed to as much as 11 hours of television a day.

(4) Studies have shown that children exposed to violent video programming at a young age have a higher tendency for violent and aggressive behavior later in life than children not so exposed, and that children exposed to violent video programming are prone to assume that acts of violence are acceptable behavior.

(5) Children in the United States are, on average, exposed to an estimated 8,000 murders and 100,000 acts of violence on television by the time the child completes elementary school.

(6) Studies indicate that children are affected by the pervasiveness and casual treatment of sexual material on television, eroding the ability of parents to develop responsible attitudes and behavior in their children.

(7) Parents express grave concern over violent and sexual video programming and strongly support technology that would give them greater control to block video programming in the home that they consider harmful to their children.

(8) There is a compelling governmental interest in empowering parents to limit the negative influences of video programming that is harmful to children.

(9) Providing parents with timely information about the nature of upcoming video programming and with the technological tools that allow them easily to block violent, sexual, or other programming that they believe harmful to their children is the least restrictive and most narrowly tailored means of achieving that compelling governmental interest.

(b) ESTABLISHMENT OF TELEVISION RATING CODE.—Section 303 of the Act (47 U.S.C. 303) is amended by adding at the end the following:

''(v) Prescribe—

''(1) on the basis of recommendations from an advisory committee established by the Commission that is composed of parents, television broadcasters, television programming producers, cable operators, appropriate public interest groups, and other interested individuals from the private sector and that is fairly balanced in terms of political affiliation, the points of view represented, and the functions to be performed by the committee, guidelines and recommended procedures for the identification and rating of video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children, provided that nothing in this paragraph shall be con-

strued to authorize any rating of video programming on the basis of its political or religious content; and

''(2) with respect to any video programming that has been rated (whether or not in accordance with the guidelines and recommendations prescribed under paragraph (1)), rules requiring distributors of such video programming to transmit such rating to permit parents to block the display of video programming that they have determined is inappropriate for their children.''.

(c) REQUIREMENT FOR MANUFACTURE OF TELEVISIONS THAT BLOCK PROGRAMS.—Section 303 of the Act, as amended by subsection (a), is further amended by adding at the end the following:

''(w) Require, in the case of apparatus designed to receive television signals that are manufactured in the United States or imported for use in the United States and that have a picture screen 13 inches or greater in size (measured diagonally), that such apparatus be equipped with circuitry designed to enable viewers to block display of all programs with a common rating, except as otherwise permitted by regulations pursuant to section 330(c)(4).''.

(d) SHIPPING OR IMPORTING OF TELEVISIONS THAT BLOCK PROGRAMS.—

(1) REGULATIONS.—Section 330 of the Communications Act of 1934 (47 U.S.C. 330) is amended—

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

(B) by adding after subsection (b) the following new subsection (c):

"(c)(1) Except as provided in paragraph (2), no person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States any apparatus described in section 303(w) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section.

"(2) This subsection shall not apply to carriers transporting apparatus referred to in paragraph (1) without trading it.

"(3) The rules prescribed by the Commission under this subsection shall provide for the oversight by the Commission of the adoption of standards by industry for blocking technology. Such rules shall require that all such apparatus be able to receive the rating signals which have been transmitted by way of line 21 of the vertical blanking interval and which conform to the signal and blocking specifications established by industry under the supervision of the Commission.

''(4) As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that blocking service continues to be available to consumers. If the Commission determines that an alternative blocking technology exists that—

''(A) enables parents to block programming based on identifying programs without ratings,

''(B) is available to consumers at a cost which is comparable to the cost of technology that allows parents to block programming based on common ratings, and

''(C) will allow parents to block a broad range of programs on a multichannel system as effectively and as easily as technology that allows parents to block programming based on common ratings,

the Commission shall amend the rules prescribed pursuant to section 303(w) to require that the apparatus described in such section be equipped with either the blocking technology described in such section or the alternative blocking technology described in this paragraph.''.

(2) CONFORMING AMENDMENT.—Section 330(d) of such Act, as redesignated by subsection (a)(1), is amended by striking ''section 303(s), and section 303(u)'' and inserting in lieu thereof ''and sections 303(s), 303(u), and 303(w)''.

(e) APPLICABILITY AND EFFECTIVE DATES.—

(1) APPLICABILITY OF RATING PROVISION.—The amendment made by subsection (b) of this section shall take effect 1 year after the date of enactment of this Act, but only if the Commission determines, in consultation with appropriate public interest groups and interested individuals from the private sector, that distributors of video programming have not, by such date—

(A) established voluntary rules for rating video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children, and such rules are acceptable to the Commission; and

(B) agreed voluntarily to broadcast signals that contain ratings of such programming.

(2) EFFECTIVE DATE OF MANUFACTURING PROVISION.—In prescribing regulations to implement the amendment made by subsection (c), the Federal Communications Commission shall, after consultation with the television manufacturing industry, specify the effective date for the applicability of the requirement to the apparatus covered by such amendment,

which date shall not be less than one year after the date of the enactment of this Act.

SEC. 306. TERM OF LICENSES.

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

"(c) TERMS OF LICENSES.—

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

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

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

SEC. 307. BROADCAST LICENSE RENEWAL PROCEDURES.

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

"(k) BROADCAST STATION RENEWAL PROCEDURES.—

"(1) STANDARDS FOR RENEWAL.—If the licensee of a broadcast station submits an application to the Commission for renewal of such license, the Commission shall grant the application if it finds, with re-

spect to that station, during the preceding term of its license—

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

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

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

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

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

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

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

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

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

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any application for renewal pending or filed on or after the date of enactment of this Act.

SEC. 308. EXCLUSIVE FEDERAL JURISDICTION OVER DIRECT BROADCAST SATELLITE SERVICE.

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

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

SEC. 309. AUTOMATED SHIP DISTRESS AND SAFETY SYSTEMS.

Notwithstanding any provision of the Communications Act of 1934 or any other provision of law or regulation, a ship documented under the laws of the United States operating in accordance with the Global Maritime Distress and Safety System provisions of the Safety of Life at Sea Convention shall not be required to be equipped with a radio telegraphy station operated by one or more radio officers or operators. This section shall take effect for each vessel upon a determination by the United States Coast Guard that such vessel has the equipment required to implement the Global Maritime Distress and Safety System installed and operating in good working condition.

SEC. 310. RESTRICTIONS ON OVER-THE-AIR RECEPTION DEVICES.

Within 180 days after the enactment of this Act, the Commission shall, pursuant to section 303, promulgate regulations to prohibit restrictions that inhibit a viewer's ability to receive video programming services through signal

receiving devices designed for off-the-air reception of television broadcast signals or direct broadcast satellite services.

SEC. 311. DBS SIGNAL SECURITY.

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

SEC. 312. DELEGATION OF EQUIPMENT TESTING AND CERTIFICATION TO PRIVATE LABORATORIES.

Section 302 of the Act (47 U.S.C. 302) is amended by adding at the end the following:

''(e) USE OF PRIVATE ORGANIZATIONS FOR TESTING AND CERTIFICATION.—The Commission may—

''(1) authorize the use of private organizations for testing and certifying the compliance of devices or home electronic equipment and systems with regulations promulgated under this section;

''(2) accept as prima facie evidence of such compliance the certification by any such organization; and

''(3) establish such qualifications and standards as it deems appropriate for such private organizations, testing, and certification.''.

TITLE IV—EFFECT ON OTHER LAWS

SEC. 401. RELATIONSHIP TO OTHER LAWS.

(a) MODIFICATION OF FINAL JUDGMENT.—This Act and the amendments made by title I of this Act shall supersede only the following sections of the Modification of Final Judgment:

(1) Section II(C) of the Modification of Final Judgment, relating to deadline for procedures for equal access compliance.

(2) Section II(D) of the Modification of Final Judgment, relating to line of business restrictions.

(3) Section VIII(A) of the Modification of Final Judgment, relating to manufacturing restrictions.

(4) Section VIII(C) of the Modification of Final Judgment, relating to standard for entry into the interexchange market.

(5) Section VIII(D) of the Modification of Final Judgment, relating to prohibition on entry into electronic publishing.

(6) Section VIII(H) of the Modification of Final Judgment, relating to debt ratios at the time of transfer.

(7) Section VIII(J) of the Modification of Final Judgment, relating to prohibition on implementation of the plan of reorganization before court approval.

(b) ANTITRUST LAWS.—Nothing in this Act or in the amendments made by this Act shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws.

(c) FEDERAL, STATE, AND LOCAL LAW.—(1) Parts II and III of title II of the Communications Act of 1934 shall not be construed to modify, impair, or supersede Federal, State, or local law unless expressly so provided in such part.

(2) STATE TAX SAVINGS PROVISION.—Notwithstanding paragraph (1), nothing in this Act or the amendments made by this Act shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or supersession of, any State or local law pertaining to taxation, except as provided in sections 243(e) and 622 of the Communications Act of 1934 and section 402 of this Act.

(d) APPLICATION TO OTHER ACTION.—This Act shall supersede the final judgment entered December 21, 1984 and as restated January 11, 1985, in the action styled United States v. GTE Corp., Civil Action No. 83–1298, in the United States District Court for the District of Columbia, and any judgment or order with respect to such action entered on or after December 21, 1984, and such final judg-

ment shall not be enforced with respect to conduct occurring after the date of the enactment of this Act.

(e) INAPPLICABILITY OF FINAL JUDGMENT TO WIRELESS SUCCESSORS.—No person shall be considered to be an affiliate, a successor, or an assign of a Bell operating company under section III of the Modification of Final Judgment by reason of having acquired wireless exchange assets or operations previously owned by a Bell operating company or an affiliate of a Bell operating company.

(f) ANTITRUST LAWS.—As used in this section, the term ''antitrust laws'' has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes the Act of June 19, 1936 (49 Stat. 1526; 15 U.S.C. 13 et seq.), commonly known as the Robinson Patman Act, and section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(g) ADDITIONAL DEFINITIONS.—As used in this section, the terms ''Modification of Final Judgment'' and ''Bell operating company'' have the same meanings provided such terms in section 3 of the Communications Act of 1934.

SEC. 402. PREEMPTION OF LOCAL TAXATION WITH RESPECT TO DBS SERVICE.

(a) PREEMPTION.—A provider of direct-to-home satellite service shall be exempt from the collection or remittance, or both, of any tax or fee imposed by any local taxing jurisdiction with respect to the provision of direct-to-home satellite service. Nothing in this section shall be construed to exempt from collection or remittance any tax or fee on the sale of equipment.

(b) DEFINITIONS.—For the purposes of this section—

(1) DIRECT-TO-HOME SATELLITE SERVICE.—The term ''direct-to-home satellite service'' means the transmission or broadcasting by satellite of programming directly to the subscribers' premises without the use of ground receiving or distribution equipment, except at the subscribers' premises or in the uplink process to the satellite.

(2) PROVIDER OF DIRECT-TO-HOME SATELLITE SERVICE.—For purposes of this section, a ''provider of direct-to-home satellite service'' means a person who transmits, broadcasts, sells, or distributes direct-to-home satellite service.

(3) LOCAL TAXING JURISDICTION.—The term ''local taxing jurisdiction'' means any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or any other local ju-

risdiction in the territorial jurisdiction of the United States with the authority to impose a tax or fee, but does not include a State.

(4) STATE.—The term ''State'' means any of the several States, the District of Columbia, or any territory or possession of the United States.

(5) TAX OR FEE.—The terms ''tax'' and ''fee'' mean any local sales tax, local use tax, local intangible tax, local income tax, business license tax, utility tax, privilege tax, gross receipts tax, excise tax, franchise fees, local telecommunications tax, or any other tax, license, or fee that is imposed for the privilege of doing business, regulating, or raising revenue for a local taxing jurisdiction.

(c) PRESERVATION OF STATE AUTHORITY.—This section shall not be construed to prevent taxation of a provider of direct-to-home satellite service by a State or to prevent a local taxing jurisdiction from receiving revenue derived from a tax or fee imposed and collected by a State.

SEC. 403. PROTECTION OF MINORS AND CLARIFICATION OF CURRENT LAWS REGARDING COMMUNICATION OF OBSCENE AND INDECENT MATERIALS THROUGH THE USE OF COMPUTERS.

(a) PROTECTION OF MINORS.—

(1) GENERALLY.—Section 1465 of title 18, United States Code, is amended by adding at the end the following:

''Whoever intentionally communicates by computer, in or affecting interstate or foreign commerce, to any person the communicator believes has not attained the age of 18 years, any material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs, or attempts to do so, shall be fined under this title or imprisoned not more than five years, or both.''.

(2) CONFORMING AMENDMENTS RELATING TO FORFEITURE.—

(A) Section 1467(a)(1) of title 18, United States Code, is amended by inserting ''communicated,'' after ''transported,''.

(B) Section 1467 of title 18, United States Code, is amended in subsection (a)(1), by striking ''obscene''.

(C) Section 1469 of title 18, United States Code, is amended by inserting ''communicated,'' after ''transported,'' each place it appears.

(b) CLARIFICATION OF CURRENT LAWS REGARDING COMMUNICATION OF OBSCENE MATERIALS THROUGH THE USE OF COMPUTERS.—

(1) IMPORTATION OR TRANSPORTATION.—Section 1462 of title 18, United States Code, is amended—

(A) in the first undesignated paragraph, by inserting ''(including by computer) after ''thereof''; and

(B) in the second undesignated paragraph—

(i) by inserting ''or receives,'' after ''takes'';

(ii) by inserting '', or by computer,'' after ''common carrier''; and

(iii) by inserting ''or importation'' after ''carriage''.

(2) TRANSPORTATION FOR PURPOSES OF SALE OR DISTRIBUTION.—The first undesignated paragraph of section 1465 of title 18, United States Code, is amended—

(A) by striking ''transports in'' and inserting ''transports or travels in, or uses a facility or means of,'';

(B) by inserting ''(including a computer in or affecting such commerce)'' after ''foreign commerce'' the first place it appears; and

(C) by striking '', or knowingly travels in'' and all that follows through ''obscene material in

interstate or foreign commerce,'' and inserting ''of''.

TITLE V—DEFINITIONS

SEC. 501. DEFINITIONS.

(a) ADDITIONAL DEFINITIONS.—Section 3 of the Act (47 U.S.C. 153) is amended—

(1) in subsection (r)—

(A) by inserting ''(A)'' after ''means''; and

(B) by inserting before the period at the end the following: '', or (B) service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service within a State but which does not result in the subscriber incurring a telephone toll charge''; and

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

''(35) AFFILIATE.—The term 'affiliate', when used in relation to any person or entity, means another person or entity who owns or controls, is owned or controlled by, or is under common ownership or control with, such person or entity.

''(36) BELL OPERATING COMPANY.—The term 'Bell operating company' means—

"(A) Bell Telephone Company of Nevada, Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, New England Telephone and Telegraph Company, New Jersey Bell Telephone Company, New York Telephone Company, U S West Communications Company, South Central Bell Telephone Company, Southern Bell Telephone and Telegraph Company, Southwestern Bell Telephone Company, The Bell Telephone Company of Pennsylvania, The Chesapeake and Potomac Telephone Company, The Chesapeake and Potomac Telephone Company of Maryland, The Chesapeake and Potomac Telephone Company of Virginia, The Chesapeake and Potomac Telephone Company of West Virginia, The Diamond State Telephone Company, The Ohio Bell Telephone Company, The Pacific Telephone and Telegraph Company, or Wisconsin Telephone Company;

"(B) any successor or assign of any such company that provides telephone exchange service.

"(37) CABLE SYSTEM.—The term 'cable system' has the meaning given such term in section 602(7) of this Act.

"(38) CUSTOMER PREMISES EQUIPMENT.—The term 'customer premises equipment' means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications.

"(39) DIALING PARITY.—The term 'dialing parity' means that a person that is not an affiliated enterprise of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications services provider of the customer's designation from among 2 or more telecommunications services providers (including such local exchange carrier).

"(40) EXCHANGE ACCESS.—The term 'exchange access' means the offering of telephone exchange services or facilities for the purpose of the origination or termination of interLATA services.

"(41) INFORMATION SERVICE.—The term 'information service' means the offering of a capability for generating, acquiring, storing, transforming, process-

ing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service. For purposes of section 242, such term shall not include the provision of video programming directly to subscribers.

"(42) INTERLATA SERVICE.—The term 'interLATA service' means telecommunications between a point located in a local access and transport area and a point located outside such area.

"(43) LOCAL ACCESS AND TRANSPORT AREA.—The term 'local access and transport area' or 'LATA' means a contiguous geographic area—

"(A) established by a Bell operating company such that no exchange area includes points within more than 1 metropolitan statistical area, consolidated metropolitan statistical area, or State, except as expressly permitted under the Modification of Final Judgment before the date of the enactment of this paragraph; or

"(B) established or modified by a Bell operating company after the date of enactment of

this paragraph and approved by the Commission.

"(44) LOCAL EXCHANGE CARRIER.—The term 'local exchange carrier' means any person that is engaged in the provision of telephone exchange service or exchange access. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under section 332(c), except to the extent that the Commission finds that such service as provided by such person in a State is a replacement for a substantial portion of the wireline telephone exchange service within such State.

"(45) MODIFICATION OF FINAL JUDGMENT.—The term 'Modification of Final Judgment' means the order entered August 24, 1982, in the antitrust action styled United States v. Western Electric, Civil Action No. 82–0192, in the United States District Court for the District of Columbia, and includes any judgment or order with respect to such action entered on or after August 24, 1982.

"(46) NUMBER PORTABILITY.—The term 'number portability' means the ability of users of telecommunications services to retain existing telecommunications numbers without impairment of quality, reliability, or convenience when changing from one provider of

telecommunications services to another, as long as such user continues to be located within the area served by the same central office of the carrier from which the user is changing.

"(47) RURAL TELEPHONE COMPANY.—The term 'rural telephone company' means a local exchange carrier operating entity to the extent that such entity—

"(A) provides common carrier service to any local exchange carrier study area that does not include either—

"(i) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recent available population statistics of the Bureau of the Census; or

"(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;

"(B) provides telephone exchange service, including telephone exchange access service, to fewer than 50,000 access lines;

"(C) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

"(D) has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of this paragraph.

"(48) TELECOMMUNICATIONS.—The term 'telecommunications' means the transmission, between or among points specified by the subscriber, of information of the subscriber's choosing, without change in the form or content of the information as sent and received, by means of an electromagnetic transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission.

"(49) TELECOMMUNICATIONS EQUIPMENT.—The term 'telecommunications equipment' means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades).

"(50) TELECOMMUNICATIONS SERVICE.—The term 'telecommunications service' means the offering, on a common carrier basis, of telecommunications fa-

cilities, or of telecommunications by means of such facilities. Such term does not include an information service.''.

(b) STYLISTIC CONSISTENCY.—Section 3 of the Act (47 U.S.C. 153) is amended—

(1) in subsections (e) and (n), by redesignating clauses (1), (2) and (3), as clauses (A), (B), and (C), respectively;

(2) in subsection (w), by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(3) in subsections (y) and (z), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(4) by redesignating subsections (a) through (ff) as paragraphs (1) through (32);

(5) by indenting such paragraphs 2 em spaces;

(6) by inserting after the designation of each such paragraph—

(A) a heading, in a form consistent with the form of the heading of this subsection, consisting of the term defined by such paragraph, or the first term so defined if such paragraph defines more than one term; and

(B) the words ''The term'';

(7) by changing the first letter of each defined term in such paragraphs from a capital to a lower case letter (except for ''United States'', ''State'', ''State commission'', and ''Great Lakes Agreement''); and

(8) by reordering such paragraphs and the additional paragraphs added by subsection (a) in alphabetical order based on the headings of such paragraphs and renumbering such paragraphs as so reordered.

(c) CONFORMING AMENDMENTS.—The Act is amended—

(1) in section 225(a)(1), by striking ''section 3(h)'' and inserting ''section 3'';

(2) in section 332(d), by striking ''section 3(n)'' each place it appears and inserting ''section 3''; and

(3) in sections 621(d)(3), 636(d), and 637(a)(2), by striking ''section 3(v)'' and inserting ''section 3''.

TITLE VI—SMALL BUSINESS COMPLAINT PROCEDURE

SEC. 601. COMPLAINT PROCEDURE.

(a) PROCEDURE REQUIRED.—The Federal Communications Commission shall establish procedures for the receipt and review of complaints concerning violations of the Communications Act of 1934, and the rules and regulations

thereunder, that are likely to result, or have resulted, as a result of the violation, in material financial harm to a provider of telemessaging service, or other small business engaged in providing an information service or other telecommunications service. Such procedures shall be established within 120 days after the date of enactment of this Act.

(b) DEADLINES FOR PROCEDURES; SANCTIONS.—The procedures under this section shall ensure that the Commission will make a final determination with respect to any such complaint within 120 days after receipt of the complaint. If the complaint contains an appropriate showing that the alleged violation occurred, as determined by the Commission in accordance with such regulations, the Commission shall, within 60 days after receipt of the complaint, order the common carrier and its affiliates to cease engaging in such violation pending such final determination. In addition, the Commission may exercise its authority to impose other penalties or sanctions, to the extent otherwise provided by law.

(c) DEFINITION.—For purposes of this section, a small business shall be any business entity that, along with any affiliate or subsidiary, has fewer than 300 employees.

Amend the title so as to read: ''An Act to promote competition and reduce regulation in order to secure lower prices

and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.''.

Attest:

Clerk.

104TH CONGRESS
1ST SESSION

S. 652

AMENDMENTS