

103^D CONGRESS
2^D SESSION

H. R. 3626

[Report No. 103-559, Parts I and II]

To supersede the Modification of Final Judgment entered August 24, 1982, in the antitrust action styled United States v. Western Electric, Civil Action No. 82-0192, United States District Court for the District of Columbia; to amend the Communications Act of 1934 to regulate the manufacturing of Bell operating companies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 22, 1993

Mr. BROOKS (for himself and Mr. DINGELL) introduced the following bill; which was referred jointly to the Committees on the Judiciary and Energy and Commerce

JUNE 24, 1994

Reported from the Committee on Energy and Commerce with an Amendment
[Strike out all after the enacting clause and insert the part printed in italic]

JUNE 24, 1994

Additional sponsors: Mr. NADLER, Mr. LAZIO, Mr. BLUTE, Mr. GILMAN, Mr. FISH, Mr. MOORHEAD, Mr. MARKEY, and Mr. FIELDS of Texas

JUNE 24, 1994

Reported from the Committee on the Judiciary with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed.

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

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

A BILL

To supersede the Modification of Final Judgment entered August 24, 1982, in the antitrust action styled United States v. Western Electric, Civil Action No. 82-0192, United States District Court for the District of Columbia; to amend the Communications Act of 1934 to regulate the manufacturing of Bell operating companies, and for other purposes.

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

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

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Antitrust and Communications Reform Act of 1994”.*

6 (b) *TABLE OF CONTENTS.*—

Sec. 1. Short title; table of contents.

*TITLE I—SUPERSESION OF THE MODIFICATION OF FINAL
 JUDGMENT*

*Sec. 101. Authorization for Bell operating company to enter competitive lines of
 business.*

Sec. 102. Authorization as prerequisite.

Sec. 103. Limitations on manufacturing and providing equipment.

Sec. 104. Anticompetitive tying arrangements.

Sec. 105. Enforcement.

Sec. 106. Definitions.

Sec. 107. Relationship to other laws.

*Sec. 108. Amendment to definition of antitrust laws appearing in the Clayton
 Act.*

*TITLE II—REGULATION OF MANUFACTURING, ALARM SERVICES
 AND ELECTRONIC PUBLISHING BY BELL OPERATING COMPANIES*

Sec. 201. Regulation of manufacturing by Bell operating companies.

Sec. 202. Regulation of entry into alarm monitoring services.

Sec. 203. Regulation of electronic publishing.

Sec. 204. Privacy of customer information.

1 **TITLE I—SUPERSESION OF THE**
2 **MODIFICATION OF FINAL**
3 **JUDGMENT**

4 **SEC. 101. AUTHORIZATION FOR BELL OPERATING COMPANY**
5 **TO ENTER COMPETITIVE LINES OF BUSINESS.**

6 (a) APPLICATION.—

7 (1) IN GENERAL.—After the applicable date spec-
8 ified in paragraph (2), a Bell operating company
9 may apply to the Attorney General and the Federal
10 Communications Commission for authorization, not-
11 withstanding the Modification of Final Judgment—

12 (A) to provide alarm monitoring services, or

13 (B) to provide interexchange telecommuni-
14 cations services.

15 The application shall describe with particularity the
16 nature and scope of the activity, and of each product
17 market or service market, and each geographic mar-
18 ket, for which authorization is sought.

19 (2) APPLICABLE DATES.—For purposes of para-
20 graph (1), the applicable date after which a Bell oper-
21 ating company may apply for authorization shall
22 be—

23 (A) the date of the enactment of this Act,
24 with respect to—

1 (i) engaging in any activity described
2 in subparagraph (B), (C), or (D), to the ex-
3 tent, with respect to each market to which
4 the activity relates, that there exists no ac-
5 tual or potential competition,

6 (ii) providing a service described in
7 subsection (b)(3)(D)(iii),

8 (iii) providing, through transmission
9 facilities owned by such company, interstate
10 interexchange telecommunications services
11 that originate and terminate in exchange
12 areas in which the Bell operating company,
13 or an affiliate (as of November 21, 1993) of
14 such company that is a Bell operating com-
15 pany, provided telephone exchange service
16 on November 21, 1993,

17 (B) except to the extent that an earlier date
18 is available under subparagraph (A), the date
19 that occurs 18 months after the date of the enact-
20 ment of this Act, with respect to providing
21 interexchange telecommunications services
22 through the acquisition and resale of tele-
23 communications services,

24 (C) except to the extent that an earlier date
25 is available under subparagraph (A) or (B), the

1 date that occurs 60 months after the date of the
2 enactment of this Act, with respect to providing
3 any interstate telecommunications, and

4 (D) the date that occurs 66 months after the
5 date of the enactment of this Act, with respect to
6 providing alarm monitoring services.

7 (3) *INTERAGENCY NOTIFICATION.*—Whenever the
8 Attorney General or the Federal Communications
9 Commission receives an application made under
10 paragraph (1), the recipient of the application shall
11 notify the other of such receipt.

12 (4) *PUBLICATION.*—Not later than 10 days after
13 receiving an application made under paragraph (1),
14 the Attorney General and the Federal Communica-
15 tions Commission jointly shall publish the applica-
16 tion in the Federal Register.

17 (b) *SEPARATE DETERMINATIONS BY THE ATTORNEY*
18 *GENERAL AND THE FEDERAL COMMUNICATIONS COMMIS-*
19 *SION.*—

20 (1) *COMMENT PERIOD.*—Not later than 45 days
21 after an application is published under subsection
22 (a)(4), interested persons may submit written com-
23 ments to the Attorney General, to the Federal Com-
24 munications Commission, or to both regarding the

1 *application. Submitted comments shall be available to*
2 *the public.*

3 (2) *INTERAGENCY CONSULTATION.—Before mak-*
4 *ing their respective determinations under paragraph*
5 *(3), the Attorney General and the Federal Commu-*
6 *nications Commission shall consult with each other*
7 *regarding the application involved.*

8 (3) *DETERMINATIONS.—(A) After the time for*
9 *comment under paragraph (1) has expired, but not*
10 *later than 180 days after receiving an application*
11 *made under subsection (a)(1), the Attorney General*
12 *and the Federal Communications Commission each*
13 *shall issue separately a written determination, on the*
14 *record after an opportunity for a hearing, with re-*
15 *spect to granting the authorization for which the Bell*
16 *operating company has applied.*

17 (B) *Such determination shall be based on clear*
18 *and convincing evidence.*

19 (C) *Any person who might be injured in its busi-*
20 *ness or property as a result of the approval of the au-*
21 *thorization requested shall be permitted to participate*
22 *as a party in the proceeding on which the determina-*
23 *tion is based.*

24 (D)(i) *The Attorney General shall approve the*
25 *granting of the authorization requested in the appli-*

1 *cation only to the extent that the Attorney General*
2 *finds that there is no substantial possibility that such*
3 *company or its affiliates could use monopoly power to*
4 *impede competition in the market such company seeks*
5 *to enter. The Attorney General shall deny the remain-*
6 *der of the requested authorization.*

7 *(ii) The Federal Communications Commission*
8 *shall approve the granting of the requested authoriza-*
9 *tion only to the extent that the Commission finds that*
10 *granting the requested authorization is consistent*
11 *with the public interest, convenience, and necessity.*
12 *The Commission shall deny the remainder of the re-*
13 *quested authorization.*

14 *(iii) Notwithstanding clauses (i) and (ii), within*
15 *180 days after the date of the enactment of this Act,*
16 *the Attorney General and the Federal Communica-*
17 *tions Commission shall each prescribe regulations to*
18 *establish procedures and criteria for the expedited de-*
19 *termination and approval of applications to provide*
20 *interexchange telecommunications services that are*
21 *incidental to the provision of another service which*
22 *the Bell operating company may lawfully provide*
23 *(and that are not described in section 102(c)). In pre-*
24 *scribing such regulations, the Attorney General and*

1 *the Commission shall consult for the purpose of avoid-*
2 *ing inconsistencies in such regulations.*

3 *(E) In making a determination under subpara-*
4 *graph (D)(ii) regarding the public interest, conven-*
5 *ience, and necessity, the Commission shall take into*
6 *account—*

7 *(i) the probability that granting the re-*
8 *quested authorization will secure reduced rates*
9 *for consumers of the services that are the subject*
10 *of the application, especially residential subscrib-*
11 *ers,*

12 *(ii) whether granting the requested author-*
13 *ization will result in increases in rates for con-*
14 *sumers of exchange service,*

15 *(iii) the extent to which granting the re-*
16 *quested authorization will expedite the delivery*
17 *of new services and products to consumers,*

18 *(iv) the extent to which the Commission's*
19 *regulations or other laws and regulations will*
20 *preclude the applicant from engaging in preda-*
21 *tory pricing or other coercive economic practices*
22 *with respect to the services that are the subject*
23 *of the application,*

24 *(v) the extent to which granting the re-*
25 *quested authorization would permit collusive acts*

1 or practices between or among Bell operating
2 companies that are not affiliates of each other,

3 (vi) whether granting the requested author-
4 ization will result, directly or indirectly, in in-
5 creasing concentration among providers of the
6 service that is the subject of the application to
7 such an extent that consumers will not be pro-
8 tected from rates that are unjust or unreasonable
9 or that are unjustly or unreasonably discrimina-
10 tory, and

11 (vii) in the case of an application to pro-
12 vide alarm monitoring services, whether the
13 Commission has the capability to enforce effec-
14 tively the regulations established pursuant to sec-
15 tion 230 of the Communications Act of 1934 as
16 added by this Act.

17 (F) A determination that approves the granting
18 of any part of a requested authorization shall describe
19 with particularity the nature and scope of each activ-
20 ity, and of each product market or service market,
21 and each geographic market, to which approval ap-
22 plies.

23 (4) PUBLICATION.—Not later than 10 days after
24 issuing a determination under paragraph (3), the At-
25 torney General or the Federal Communications Com-

1 *mission, as the case may be, shall publish in the Fed-*
2 *eral Register a brief description of the determination.*

3 (5) *FINALITY.*—*A determination made under*
4 *paragraph (3) shall be final unless a civil action with*
5 *respect to such determination is timely commenced*
6 *under subsection (c)(1).*

7 (6) *AUTHORIZATION GRANTED.*—*A requested au-*
8 *thorization is granted to the extent that—*

9 (A)(i) *both the Attorney General and the*
10 *Federal Communications Commission approve*
11 *under paragraph (3) the granting of the author-*
12 *ization, and*

13 (ii) *neither of their approvals is vacated or*
14 *reversed as a result of judicial review authorized*
15 *by subsection (c), or*

16 (B) *as a result of such judicial review of ei-*
17 *ther or both determinations, both the Attorney*
18 *General and the Federal Communications Com-*
19 *mission approve the granting of the requested*
20 *authorization.*

21 (c) *JUDICIAL REVIEW.*—

22 (1) *CIVIL ACTION.*—*Not later than 45 days after*
23 *a determination by the Attorney General or the Fed-*
24 *eral Communications Commission is published under*
25 *subsection (b)(4), the Bell operating company that*

1 *applied to the Attorney General and the Federal Com-*
2 *munications Commission under subsection (a), or any*
3 *person who might be injured in its business or prop-*
4 *erty as a result of the determination regarding such*
5 *company's engaging in the activity described in such*
6 *company's application, may commence an action in*
7 *the United States Court of Appeals for the District of*
8 *Columbia Circuit against the Attorney General or the*
9 *Federal Communications Commission, as the case*
10 *may be, for judicial review of the determination re-*
11 *garding the application.*

12 (2) *CERTIFICATION OF RECORD.*—*As part of the*
13 *answer to the complaint, the Attorney General or the*
14 *Federal Communications Commission, as the case*
15 *may be, shall file in such court a certified copy of the*
16 *record upon which the determination is based.*

17 (3) *CONSOLIDATION OF ACTIONS.*—*The court*
18 *shall consolidate for review all civil actions com-*
19 *menced under this subsection with respect to the ap-*
20 *plication.*

21 (4) *JUDGMENT.*—(A) *The court shall enter a*
22 *judgment after reviewing the determination in ac-*
23 *cordance with section 706 of title 5 of the United*
24 *States Code.*

25 (B) *A judgment—*

1 (i) affirming any part of the determination
2 that approves granting all or part of the re-
3 quested authorization, or

4 (ii) reversing any part of the determination
5 that denies all or part of the requested authoriza-
6 tion,

7 shall describe with particularity the nature and scope
8 of each activity, and of each product market or serv-
9 ice market, and each geographic market, to which the
10 affirmance or reversal applies.

11 **SEC. 102. AUTHORIZATION AS PREREQUISITE.**

12 (a) *PREREQUISITE.*—Until a Bell operating company
13 is so authorized in accordance with section 101, it shall
14 be unlawful for such company, directly or through an affili-
15 ate, to engage in an activity described in section 101(a)(1).

16 (b) *GENERAL EXCEPTIONS.*—Except in regard to the
17 provision of alarm monitoring services, subsection (a) shall
18 not prohibit a Bell operating company or an affiliate of
19 a Bell operating company from engaging, at any time after
20 the date of the enactment of this Act—

21 (1) in any activity as authorized by an order en-
22 tered by the United States District Court for the Dis-
23 trict of Columbia pursuant to section VII or VIII(C)
24 of the Modification of Final Judgment, if—

1 (A) such order was entered on or before the
2 date of the enactment of this Act, or

3 (B) a request for such authorization was
4 pending before such court on the date of the en-
5 actment of this Act,

6 (2) in providing interexchange telecommuni-
7 cations services on an intrastate basis if (A) after the
8 date of enactment of this Act, such telecommuni-
9 cations have been approved by, or are authorized
10 under the laws of, the State involved, and public no-
11 tice of the availability of such authority has occurred
12 at least 60 days before the offering of such
13 interexchange telecommunications services, and (B)
14 the Bell operating company is required by regulations
15 prescribed by the Commission and the State, for the
16 services subject to their respective jurisdictions, to pay
17 a nondiscriminatory access charge to the local ex-
18 change carrier (including itself) that provides the Bell
19 operating company with telephone exchange access,

20 (3) in providing interexchange telecommuni-
21 cations services through the purchase and resale of
22 telecommunications services obtained from a person
23 who is not an affiliate of such company if—

24 (A) such interexchange telecommunications
25 services originate in any State that, after the

1 *date of the enactment of this Act, approves or*
2 *authorizes persons that are not affiliates of such*
3 *company to provide intraexchange toll tele-*
4 *communications services in such a manner that*
5 *customers in such State have the ability to route*
6 *automatically, without the use of any access*
7 *code, their intraexchange toll telecommunications*
8 *to the telecommunications services provider of the*
9 *customer's designation from among 2 or more*
10 *telecommunications services providers (including*
11 *such company), and*

12 *(B) not less than 45 days before such*
13 *company so provides such interexchange tele-*
14 *communications services—*

15 *(i) such company gives public notice of*
16 *the availability of such approval or author-*
17 *ization, and*

18 *(ii) the Attorney General fails to com-*
19 *mence a civil action to enjoin such com-*
20 *pany from so providing such interexchange*
21 *telecommunications services, or*

22 *(4) in any activity in which the Bell operating*
23 *company or affiliate was authorized to engage on the*
24 *date of enactment of this Act, except (A) as specifi-*
25 *cally provided in this Act with respect to alarm mon-*

1 *itoring and electronic publishing, or (B) as provided*
2 *in any order of the United States District Court for*
3 *the District of Columbia that grants only temporary*
4 *authority.*

5 (c) *EXCEPTIONS FOR INCIDENTAL SERVICES.*—Sub-
6 *section (a) shall not prohibit a Bell operating company or*
7 *an affiliate of a Bell operating company, at any time after*
8 *the date of the enactment of this Act—*

9 (1) *from providing cable service (as such term is*
10 *defined in section 602 of the Communications Act of*
11 *1934 (47 U.S.C. 522)) to subscribers,*

12 (2) *from offering a telecommunications service*
13 *between exchange areas within a cable system fran-*
14 *chise area in a State within which the Bell operating*
15 *company is not, on the date of enactment of this Act,*
16 *a provider of telephone exchange service,*

17 (3) *from offering commercial mobile services*
18 *within the meaning of section 332(d)(1) of the Com-*
19 *munications Act of 1934 (47 U.S.C. 332(d)(1)),*

20 (4) *from offering a service that permits a cus-*
21 *tomers located in one exchange area to retrieve stored*
22 *information from, or file information for storage in,*
23 *another exchange area, or*

1 (5) from providing signalling integral to the in-
2 ternal operation of telephone exchange service net-
3 works.

4 **SEC. 103. LIMITATIONS ON MANUFACTURING AND PROVID-**
5 **ING EQUIPMENT.**

6 (a) *AUTHORIZATION FOR ENTRY.*—

7 (1) *REQUIRED CONDITIONS.*—It shall be unlaw-
8 ful for a Bell operating company, directly or through
9 an affiliated enterprise, to manufacture or provide
10 telecommunications equipment, or to manufacture
11 customer premises equipment, unless—

12 (A) such company submits to the Attorney
13 General, at any time after the date of the enact-
14 ment of this Act, the notification described in
15 paragraph (2) and such additional material and
16 information described in such paragraph as the
17 Attorney General may request, and complies
18 with the waiting period specified in paragraph
19 (3), and

20 (B)(i) before the expiration of the waiting
21 period specified in paragraph (3), the Attorney
22 General notifies such company that for purposes
23 of this subsection the Attorney General does not
24 intend to commence such civil action, or

1 (ii) the Attorney General has not, by the ex-
2 piration of such waiting period, commenced a
3 civil action to enjoin such company from engag-
4 ing in the activity described in such notification.

5 (2) NOTIFICATION.—The notification required by
6 paragraph (1) shall be in such form and shall contain
7 such documentary material and information relevant
8 to the proposed activity as is necessary and appro-
9 priate for the Attorney General to determine whether
10 there is no substantial possibility that such company
11 or its affiliates could use monopoly power to impede
12 competition in the market such company seeks to
13 enter for such activity.

14 (3) WAITING PERIOD.—The waiting period re-
15 ferred to in paragraph (1) is the 1-year period begin-
16 ning on the date the notification required by such
17 paragraph is received by the Attorney General.

18 (4) CIVIL ACTION.—Not later than 1 year after
19 receiving a notification required by paragraph (1),
20 the Attorney General may commence a civil action in
21 an appropriate district court of the United States to
22 enjoin the Bell operating company from engaging in
23 the activity described in such notification.

24 (b) EXCEPTION FOR PREVIOUSLY AUTHORIZED AC-
25 TIVITIES.—Subsection (a) shall not prohibit a Bell operat-

1 *ing company from engaging, at any time after the date of*
2 *the enactment of this Act—*

3 *(1) in any activity as authorized by an order en-*
4 *tered by the United States District Court for the Dis-*
5 *trict of Columbia pursuant to section VII or VIII(C)*
6 *of the Modification of Final Judgment, if—*

7 *(A) such order was entered on or before the*
8 *date of the enactment of this Act, or*

9 *(B) a request for such authorization was*
10 *pending before such court on the date of the en-*
11 *actment of this Act, or*

12 *(2) in any activity in which the Bell operating*
13 *company or affiliate was authorized to engage on the*
14 *date of enactment of this Act, except (A) as specifi-*
15 *cally provided in this Act with respect to alarm mon-*
16 *itoring and electronic publishing, or (B) as provided*
17 *in any order of the United States District Court for*
18 *the District of Columbia that grants only temporary*
19 *authority.*

20 **SEC. 104. ANTICOMPETITIVE TYING ARRANGEMENTS.**

21 *A Bell operating company with monopoly power in*
22 *any exchange service market shall not tie (directly or indi-*
23 *rectly) in any relevant market the sale of any product or*
24 *service to the provision of any telecommunications service,*
25 *if the effect of such tying may be to substantially lessen com-*

1 *petition, or to tend to create a monopoly, in any line of*
2 *commerce.*

3 **SEC. 105. ENFORCEMENT.**

4 (a) *EQUITABLE POWERS OF UNITED STATES ATTOR-*
5 *NEYS.—It shall be the duty of the several United States at-*
6 *torneys, under the direction of the Attorney General, to in-*
7 *stitute proceedings in equity in their respective districts to*
8 *prevent and restrain violations of this Act.*

9 (b) *CRIMINAL LIABILITY.—Whoever knowingly engages*
10 *or knowingly attempts to engage in an activity that is pro-*
11 *hibited by section 102, 103, or 104 shall be guilty of a fel-*
12 *ony, and on conviction thereof, shall be punished to the*
13 *same extent as a person is punished upon conviction of a*
14 *violation of section 1 of the Sherman Act (15 U.S.C. 1).*

15 (c) *PRIVATE RIGHT OF ACTION.—Any person who is*
16 *injured in its business or property by reason of a violation*
17 *of this Act—*

18 (1) *may bring a civil action in any district*
19 *court of the United States in the district in which the*
20 *defendant resides or is found or has an agent, without*
21 *respect to the amount in controversy, and*

22 (2) *shall recover threefold the damages sustained,*
23 *and the cost of suit (including a reasonable attorney's*
24 *fee).*

1 *The court may award under this section, pursuant to a mo-*
2 *tion by such person promptly made, simple interest on ac-*
3 *tual damages for the period beginning on the date of service*
4 *of such person's pleading setting forth a claim under this*
5 *Act and ending on the date of judgment, or for any shorter*
6 *period therein, if the court finds that the award of such*
7 *interest for such period is just in the circumstances.*

8 (d) *PRIVATE INJUNCTIVE RELIEF.*—Any person shall
9 *be entitled to sue for and have injunctive relief, in any court*
10 *of the United States having jurisdiction over the parties,*
11 *against threatened loss or damage by a violation of this Act,*
12 *when and under the same conditions and principles as in-*
13 *junctive relief is available under section 16 of the Clayton*
14 *Act (15 U.S.C. 26). In any action under this subsection*
15 *in which the plaintiff substantially prevails, the court shall*
16 *award the cost of suit, including a reasonable attorney's*
17 *fee, to such plaintiff.*

18 (e) *JURISDICTION.*—(1) *Subject to paragraph (2), the*
19 *courts of the United States shall have exclusive jurisdiction*
20 *to make determinations with respect to a duty, claim, or*
21 *right arising under this Act, other than determinations au-*
22 *thorized to be made by the Attorney General and the Fed-*
23 *eral Communications Commission under section 101(b)(3).*

1 (2) *The United States Court of Appeals for the District*
2 *of Columbia shall have exclusive jurisdiction to review de-*
3 *terminations made under section 101(b)(3).*

4 (3) *No action commenced to assert or enforce a duty,*
5 *claim, or right arising under this Act shall be stayed pend-*
6 *ing any such determination by the Attorney General or the*
7 *Federal Communications Commission.*

8 (f) *SUBPOENAS.—In an action commenced under this*
9 *Act, a subpoena requiring the attendance of a witness at*
10 *a hearing or a trial may be served at any place within*
11 *the United States.*

12 **SEC. 106. DEFINITIONS.**

13 *For purposes of this title:*

14 (1) *AFFILIATE.—The term “affiliate” means a*
15 *person that (directly or indirectly) owns or controls,*
16 *is owned or controlled by, or is under common owner-*
17 *ship or control with, another person. For purposes of*
18 *this paragraph, to own refers to owning an equity in-*
19 *terest (or the equivalent thereof) of more than 50 per-*
20 *cent.*

21 (2) *ALARM MONITORING SERVICES.—The term*
22 *“alarm monitoring services” means services that de-*
23 *tect threats to life, safety, or property, by burglary,*
24 *fire, vandalism, bodily injury, or other emergency,*
25 *through the use of devices that transmit signals to a*

1 *central point in a customer's residence, place of busi-*
2 *ness, or other fixed premises which—*

3 *(A) retransmits such signals to a remote*
4 *monitoring center by means of transmission fa-*
5 *cilities of a Bell operating company or its affili-*
6 *ates, and*

7 *(B) serves to alert persons at the monitoring*
8 *center of the need to inform customers or other*
9 *persons, or police, fire, rescue, or other security*
10 *or public safety personnel of the threat at such*
11 *premises.*

12 *Such term does not include medical monitoring de-*
13 *vices attached to individuals for the automatic sur-*
14 *veillance of ongoing medical conditions.*

15 *(3) ANTITRUST LAWS.—The term “antitrust*
16 *laws” has the meaning given it in subsection (a) of*
17 *the first section of the Clayton Act (15 U.S.C. 12(a)),*
18 *except that such term includes the Act of June 19,*
19 *1936 (49 Stat. 1526; 15 U.S.C. 13 et seq.), commonly*
20 *known as the Robinson Patman Act, and section 5 of*
21 *the Federal Trade Commission Act (15 U.S.C. 45) to*
22 *the extent that such section 5 applies to unfair meth-*
23 *ods of competition.*

24 *(4) BELL OPERATING COMPANY.—The term “Bell*
25 *operating company” means—*

1 (A) *Bell Telephone Company of Nevada, Il-*
2 *linois Bell Telephone Company, Indiana Bell*
3 *Telephone Company, Incorporated, Michigan*
4 *Bell Telephone Company, New England Tele-*
5 *phone and Telegraph Company, New Jersey Bell*
6 *Telephone Company, New York Telephone Com-*
7 *pany, U S West Communications Company,*
8 *South Central Bell Telephone Company, South-*
9 *ern Bell Telephone and Telegraph Company,*
10 *Southwestern Bell Telephone Company, The Bell*
11 *Telephone Company of Pennsylvania, The Ches-*
12 *apeake and Potomac Telephone Company, The*
13 *Chesapeake and Potomac Telephone Company of*
14 *Maryland, The Chesapeake and Potomac Tele-*
15 *phone Company of Virginia, The Chesapeake*
16 *and Potomac Telephone Company of West Vir-*
17 *ginia, The Diamond State Telephone Company,*
18 *The Ohio Bell Telephone Company, The Pacific*
19 *Telephone and Telegraph Company, or Wiscon-*
20 *sin Telephone Company, or*

21 (B) *any successor or assign of any such*
22 *company.*

23 (5) *CUSTOMER PREMISES EQUIPMENT.*—*The*
24 *term “customer premises equipment” means equip-*
25 *ment employed on the premises of a person (other*

1 *than a person engaged in the business of providing a*
2 *telecommunications service) to originate, route, or ter-*
3 *minate telecommunications, and includes software in-*
4 *tegral to such equipment.*

5 (6) *ELECTRONIC PUBLISHING.*—*The term “elec-*
6 *tronic publishing” means the provision via tele-*
7 *communications, by a Bell operating company or an*
8 *affiliate of such company to a person other than an*
9 *affiliate of such company, of information—*

10 (A) *which such company or affiliate has, or*
11 *has caused to be, originated, authored, compiled,*
12 *collected, or edited, or*

13 (B) *in which such company or affiliate has*
14 *a direct or indirect financial or proprietary*
15 *interest.*

16 (7) *EXCHANGE AREA.*—*The term “exchange*
17 *area” means a contiguous geographic area established*
18 *by a Bell operating company such that no exchange*
19 *area includes points within more than 1 metropolitan*
20 *statistical area, consolidated metropolitan statistical*
21 *area, or State, except as expressly permitted under the*
22 *Modification of Final Judgment before the date of the*
23 *enactment of this Act.*

1 (8) *EXCHANGE SERVICE.*—The term “exchange
2 service” means a telecommunications service provided
3 within an exchange area.

4 (9) *INFORMATION.*—The term “information”
5 means knowledge or intelligence represented by any
6 form of writing, signs, signals, pictures, sounds, or
7 other symbols.

8 (10) *INTEREXCHANGE TELECOMMUNICATIONS*
9 *SERVICES.*—The term “interexchange telecommuni-
10 cations services” means a telecommunications service
11 between a point located in an exchange area and a
12 point located outside such exchange area. Such term
13 does not include alarm monitoring services or elec-
14 tronic publishing.

15 (11) *MODIFICATION OF FINAL JUDGMENT.*—The
16 term “Modification of Final Judgment” means the
17 order entered August 24, 1982, in the antitrust action
18 styled *United States v. Western Electric*, Civil Action
19 No. 82–0192, in the United States District Court for
20 the District of Columbia, and includes any judgment
21 or order with respect to such action entered on or
22 after August 24, 1982.

23 (12) *PERSON.*—The term “person” has the mean-
24 ing given it in subsection (a) of the first section of the
25 Clayton Act (15 U.S.C. 12(a)).

1 (13) *TELECOMMUNICATIONS.*—The term “tele-
2 communications” means the transmission of informa-
3 tion between points by electromagnetic means.

4 (14) *TELECOMMUNICATIONS EQUIPMENT.*—The
5 term “telecommunications equipment” means equip-
6 ment, other than customer premises equipment, used
7 to provide a telecommunications service, and includes
8 software integral to such equipment.

9 (15) *TELECOMMUNICATIONS SERVICE.*—The term
10 “telecommunications service” means the offering for
11 hire of transmission facilities or of telecommuni-
12 cations by means of such facilities. Such term does
13 not include alarm monitoring services or electronic
14 publishing.

15 (16) *TRANSMISSION FACILITIES.*—The term
16 “transmission facilities” means equipment (including
17 wire, cable, microwave, satellite, and fiber-optics) that
18 transmits information by electromagnetic means or
19 that directly supports such transmission, but does not
20 include customer premises equipment.

21 **SEC. 107. RELATIONSHIP TO OTHER LAWS.**

22 (a) *MODIFICATION OF FINAL JUDGMENT.*—This Act
23 shall supersede the Modification of Final Judgment, except
24 that this Act shall not affect—

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

2
3 (2) *section II(A) (including Appendix B) and*
4 *II(B) of the Modification of Final Judgment, relating*
5 *to equal access and nondiscrimination,*

6 (3) *section IV(F) and IV(I) of the Modification*
7 *of Final Judgment, with respect to the requirements*
8 *included in the definitions of “exchange access” and*
9 *“information access”,*

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

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

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

16 (7) *section VIII(G) of the Modification of Final*
17 *Judgment, relating to transfer of AT&T assets, in-*
18 *cluding all exceptions granted thereunder before the*
19 *date of the enactment of this Act,*

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

23 (A) *section III of the Modification of Final*
24 *Judgment, relating to applicability,*

1 (B) section IV of the Modification of Final
2 Judgment, relating to definitions,

3 (C) section V of the Modification of Final
4 Judgment, relating to compliance,

5 (D) section VI of the Modification of Final
6 Judgment, relating to visitorial provisions,

7 (E) section VII of the Modification of Final
8 Judgment, relating to retention of jurisdiction,
9 and

10 (F) section VIII(I) of the Modification of
11 Final Judgment, relating to the court's sua
12 sponte authority.

13 (b) *ANTITRUST LAWS.*—Nothing in this Act shall be
14 construed to modify, impair, or supersede the applicability
15 of any other antitrust law.

16 (c) *FEDERAL, STATE, AND LOCAL LAW.*—(1) Except
17 as provided in paragraph (2), this Act shall not be con-
18 strued to modify, impair, or supersede Federal, State, or
19 local law unless expressly so provided in this Act.

20 (2) This Act shall supersede State and local law to the
21 extent that such law would impair or prevent the operation
22 of this Act.

23 (d) *CUMULATIVE PENALTY.*—Any penalty imposed, or
24 relief granted, under this Act shall be in addition to, and
25 not in lieu of, any penalty or relief authorized by any other

1 *law to be imposed with respect to conduct described in this*
2 *Act.*

3 **SEC. 108. AMENDMENT TO DEFINITION OF ANTITRUST**

4 **LAWS APPEARING IN THE CLAYTON ACT.**

5 *Subsection (a) of the first section of the Clayton Act*
6 *(15 U.S.C. 12(a)) is amended by inserting “title I of the*
7 *Antitrust and Communications Reform Act of 1994;” after*
8 *“thirteen;”.*

9 **TITLE II—REGULATION OF MAN-**
10 **UFACTURING, ALARM SERV-**
11 **ICES AND ELECTRONIC PUB-**
12 **LISHING BY BELL OPERATING**
13 **COMPANIES**

14 **SEC. 201. REGULATION OF MANUFACTURING BY BELL OP-**
15 **ERATING COMPANIES.**

16 *Title II of the Communications Act of 1934 (47 U.S.C.*
17 *201 et seq.) is amended by adding at the end the following*
18 *new section:*

19 **“SEC. 229. REGULATION OF MANUFACTURING BY BELL**
20 **OPERATING COMPANIES.**

21 *“(a) GENERAL AUTHORITY.—Subject to the require-*
22 *ments of this section and the regulations prescribed there-*
23 *under, but notwithstanding any restriction or obligation*
24 *imposed before the date of enactment of this section pursu-*
25 *ant to the Modification of Final Judgment on the lines of*

1 *business in which a Bell operating company may engage,*
2 *a Bell operating company, through an affiliate of that com-*
3 *pany, may manufacture and provide telecommunications*
4 *equipment and manufacture customer premises equipment.*

5 “(b) *SEPARATE MANUFACTURING AFFILIATE.*—Any
6 *manufacturing or provision authorized under subsection (a)*
7 *shall be conducted only through an affiliate that is separate*
8 *from any Bell operating company.*

9 “(c) *COMMISSION REGULATION OF MANUFACTURING*
10 *AFFILIATE.*—

11 “(1) *REGULATIONS REQUIRED.*—The *Commis-*
12 *sion shall prescribe regulations to ensure that Bell op-*
13 *erating companies and their affiliates comply with*
14 *the requirements of this section.*

15 “(2) *BOOKS, RECORDS, ACCOUNTS.*—A *manufac-*
16 *turing affiliate required by subsection (b) shall—*

17 “(A) *maintain books, records, and accounts*
18 *that are separate from the books, records, and ac-*
19 *counts of its affiliated Bell operating company*
20 *and that identify all financial transactions be-*
21 *tween the manufacturing affiliate and its affili-*
22 *ated Bell operating company, and*

23 “(B) *even if such manufacturing affiliate is*
24 *not a publicly held corporation, prepare finan-*
25 *cial statements which are in compliance with fi-*

1 *nancial reporting requirements under the Fed-*
2 *eral securities laws for publicly held corpora-*
3 *tions, file such statements with the Commission,*
4 *and make such statements available for public*
5 *inspection.*

6 “(3) *IN-KIND BENEFITS TO AFFILIATE.*—*Consist-*
7 *ent with the provisions of this section, neither a Bell*
8 *operating company nor any of its nonmanufacturing*
9 *affiliates shall perform sales, advertising, installation,*
10 *production, or maintenance operations for a manu-*
11 *facturing affiliate, except that—*

12 “(A) *a Bell operating company and its*
13 *nonmanufacturing affiliates may sell, advertise,*
14 *install, and maintain telecommunications equip-*
15 *ment and customer premises equipment after ac-*
16 *quiring such equipment from their manufactur-*
17 *ing affiliate; and*

18 “(B) *institutional advertising, of a type not*
19 *related to specific telecommunications equip-*
20 *ment, carried out by the Bell operating company*
21 *or its affiliates, shall be permitted.*

22 “(4) *DOMESTIC MANUFACTURING REQUIRED.*—

23 “(A) *GENERAL RULE.*—*A manufacturing*
24 *affiliate required by subsection (b) shall conduct*
25 *all of its manufacturing within the United*

1 *States and, except as otherwise provided in this*
2 *paragraph, all component parts of customer*
3 *premises equipment manufactured by such affili-*
4 *ate, and all component parts of telecommuni-*
5 *cations equipment manufactured by such affili-*
6 *ate, shall have been manufactured within the*
7 *United States.*

8 “(B) *EXCEPTION.*—*Such affiliate may use*
9 *component parts manufactured outside the Unit-*
10 *ed States if—*

11 “(i) *such affiliate first makes a good*
12 *faith effort to obtain equivalent component*
13 *parts manufactured within the United*
14 *States at reasonable prices, terms, and con-*
15 *ditions; and*

16 “(ii) *for the aggregate of telecommuni-*
17 *cations equipment and customer premises*
18 *equipment manufactured and sold in the*
19 *United States by such affiliate, the cost of*
20 *the components manufactured outside the*
21 *United States contained in all such equip-*
22 *ment does not exceed 40 percent of the sales*
23 *revenue derived in any calendar year from*
24 *such equipment.*

1 “(C) *CERTIFICATION REQUIRED.*—Any such
2 *affiliate that uses component parts manufactured*
3 *outside the United States in the manufacture of*
4 *telecommunications equipment and customer*
5 *premises equipment within the United States*
6 *shall—*

7 “(i) *certify to the Commission that a*
8 *good faith effort was made to obtain equiva-*
9 *lent parts manufactured within the United*
10 *States at reasonable prices, terms, and con-*
11 *ditions, which certification shall be filed on*
12 *a quarterly basis with the Commission and*
13 *list component parts, by type, manufactured*
14 *outside the United States; and*

15 “(ii) *certify to the Commission on an*
16 *annual basis that such affiliate complied*
17 *with the requirements of subparagraph*
18 *(B)(ii), as adjusted in accordance with sub-*
19 *paragraph (G).*

20 “(D) *REMEDIES FOR FAILURES.*—(i) *If the*
21 *Commission determines, after reviewing the cer-*
22 *tification required in subparagraph (C)(i), that*
23 *such affiliate failed to make the good faith effort*
24 *required in subparagraph (B)(i) or, after review-*
25 *ing the certification required in subparagraph*

1 (C)(ii), that such affiliate has exceeded the per-
2 centage specified in subparagraph (B)(ii), the
3 Commission may impose penalties or forfeitures
4 as provided for in title V of this Act.

5 “(ii) Any supplier claiming to be damaged
6 because a manufacturing affiliate failed to make
7 the good faith effort required in subparagraph
8 (B)(i) may make complaint to the Commission
9 as provided for in section 208 of this Act, or
10 may bring suit for the recovery of actual dam-
11 ages for which such supplier claims such affiliate
12 may be liable under the provisions of this Act in
13 any district court of the United States of com-
14 petent jurisdiction.

15 “(E) ANNUAL REPORT.—The Commission,
16 in consultation with the Secretary of Commerce,
17 shall, on an annual basis, determine the cost of
18 component parts manufactured outside the Unit-
19 ed States contained in all telecommunications
20 equipment and customer premises equipment
21 sold in the United States as a percentage of the
22 revenues from sales of such equipment in the pre-
23 vious calendar year.

24 “(F) USE OF INTELLECTUAL PROPERTY IN
25 MANUFACTURE.—Notwithstanding subparagraph

1 (A), a manufacturing affiliate may use intellec-
2 tual property created outside the United States
3 in the manufacture of telecommunications equip-
4 ment and customer premises equipment in the
5 United States. A component manufactured using
6 such intellectual property shall not be treated for
7 purposes of subparagraph (B)(ii) as a compo-
8 nent manufactured outside the United States
9 solely on the basis of the use of such intellectual
10 property.

11 “(G) RESTRICTIONS ON COMMISSION AU-
12 THORITY.—The Commission may not waive or
13 alter the requirements of this paragraph, except
14 that the Commission, on an annual basis, shall
15 adjust the percentage specified in subparagraph
16 (B)(ii) to the percentage determined by the Com-
17 mission, in consultation with the Secretary of
18 Commerce, pursuant to subparagraph (E).

19 “(5) INSULATION OF RATE PAYERS FROM MANU-
20 FACTURING AFFILIATE DEBT.—Any debt incurred by
21 any such manufacturing affiliate may not be issued
22 by its affiliated Bell operating company and such
23 manufacturing affiliate shall be prohibited from in-
24 curring debt in a manner that would permit a credi-

1 *tor, on default, to have recourse to the assets of its af-*
2 *iliated Bell operating company.*

3 *“(6) RELATION TO OTHER AFFILIATES.—A man-*
4 *ufacturing affiliate required by subsection (b) shall*
5 *not be required to operate separately from the other*
6 *affiliates of its affiliated Bell operating company, but*
7 *if an affiliate of a Bell operating company becomes*
8 *affiliated with a manufacturing entity, such affiliate*
9 *shall be treated as a manufacturing affiliate of that*
10 *Bell operating company (except for purposes of sub-*
11 *section (c)(3)) and shall comply with the requirements*
12 *of this section.*

13 *“(7) AVAILABILITY OF EQUIPMENT TO OTHER*
14 *CARRIERS.—A manufacturing affiliate required by*
15 *subsection (b) shall make available, without discrimi-*
16 *nation or preference as to price, delivery, terms, or*
17 *conditions, to any common carrier any telecommuni-*
18 *cations equipment that is used in the provision of*
19 *telephone exchange service and that is manufactured*
20 *by such affiliate only if such purchasing carrier—*

21 *“(A) does not manufacture telecommuni-*
22 *cations equipment, and does not have an affili-*
23 *ated telecommunications equipment manufactur-*
24 *ing entity; or*

1 “(B) agrees to make available, to the Bell
2 operating company affiliated with such manu-
3 facturing affiliate or any common carrier affili-
4 ate of such Bell operating company, any tele-
5 communications equipment that is used in the
6 provision of telephone exchange service and that
7 is manufactured by such purchasing carrier or
8 by any entity or organization with which such
9 purchasing carrier is affiliated.

10 “(8) SALES PRACTICES OF MANUFACTURING AF-
11 FILIATES.—

12 “(A) PROHIBITION OF DISCONTINUATION OF
13 EQUIPMENT FOR WHICH THERE IS REASONABLE
14 DEMAND.—A manufacturing affiliate required by
15 subsection (b) shall not discontinue or restrict
16 sales to a common carrier of any telecommuni-
17 cations equipment that is used in the provision
18 of telephone exchange service and that such affili-
19 ate manufactures for sale as long as there is rea-
20 sonable demand for the equipment by such car-
21 riers; except that such sales may be discontinued
22 or restricted if such manufacturing affiliate dem-
23 onstrates to the Commission that it is not mak-
24 ing a profit, under a marginal cost standard im-

1 *plemented by the Commission by regulation, on*
2 *the sale of such equipment.*

3 *“(B) DETERMINATIONS OF REASONABLE*
4 *DEMAND.—Within 60 days after receipt of an*
5 *application under subparagraph (A), the Com-*
6 *mission shall reach a determination as to the ex-*
7 *istence of reasonable demand for purposes of such*
8 *subparagraph. In making such determination the*
9 *Commission shall consider—*

10 *“(i) whether the continued manufac-*
11 *ture of the equipment will be profitable;*

12 *“(ii) whether the equipment is func-*
13 *tionally or technologically obsolete;*

14 *“(iii) whether the components nec-*
15 *essary to manufacture the equipment con-*
16 *tinue to be available;*

17 *“(iv) whether alternatives to the equip-*
18 *ment are available in the market; and*

19 *“(v) such other factors as the Commis-*
20 *sion deems necessary and proper.*

21 *“(9) JOINT PLANNING OBLIGATIONS.—Each Bell*
22 *operating company shall, consistent with the antitrust*
23 *laws, engage in joint network planning and design*
24 *with other contiguous common carriers providing tele-*
25 *phone exchange service, but agreement with such other*

1 *carriers shall not be required as a prerequisite for the*
2 *introduction or deployment of services pursuant to*
3 *such joint network planning and design.*

4 *“(d) INFORMATION REQUIREMENTS.—*

5 *“(1) FILING OF INFORMATION ON PROTOCOLS*
6 *AND TECHNICAL REQUIREMENTS.—Each Bell operat-*
7 *ing company shall, in accordance with regulations*
8 *prescribed by the Commission, maintain and file with*
9 *the Commission full and complete information with*
10 *respect to the protocols and technical requirements for*
11 *connection with and use of its telephone exchange*
12 *service facilities. Each such company shall report*
13 *promptly to the Commission any material changes or*
14 *planned changes to such protocols and requirements,*
15 *and the schedule for implementation of such changes*
16 *or planned changes.*

17 *“(2) FILING AS PREREQUISITE TO DISCLOSURE*
18 *TO AFFILIATE.—A Bell operating company shall not*
19 *disclose to any of its affiliates any information re-*
20 *quired to be filed under paragraph (1) unless that in-*
21 *formation is filed promptly, as required by regulation*
22 *by the Commission.*

23 *“(3) ACCESS BY COMPETITORS TO INFORMA-*
24 *TION.—The Commission may prescribe such addi-*
25 *tional regulations under this subsection as may be*

1 *necessary to ensure that manufacturers in competi-*
2 *tion with a Bell operating company's manufacturing*
3 *affiliate have access to the information with respect to*
4 *the protocols and technical requirements for connec-*
5 *tion with and use of its telephone exchange service fa-*
6 *cilities required for such competition that such com-*
7 *pany makes available to its manufacturing affiliate.*

8 “(4) *PLANNING INFORMATION.*—*Each Bell oper-*
9 *ating company shall provide, to contiguous common*
10 *carriers providing telephone exchange service, timely*
11 *information on the planned deployment of tele-*
12 *communications equipment.*

13 “(e) *ADDITIONAL COMPETITION REQUIREMENTS.*—*The*
14 *Commission shall prescribe regulations requiring that any*
15 *Bell operating company which has an affiliate that engages*
16 *in any manufacturing authorized by subsection (a) shall—*

17 “(1) *provide, to other manufacturers of tele-*
18 *communications equipment and customer premises*
19 *equipment that is functionally equivalent to equip-*
20 *ment manufactured by the Bell operating company*
21 *manufacturing affiliate, opportunities to sell such*
22 *equipment to such Bell operating company which are*
23 *comparable to the opportunities which such Company*
24 *provides to its affiliates; and*

1 “(2) not subsidize its manufacturing affiliate
2 with revenues from telephone exchange service or tele-
3 phone toll service.

4 “(f) *COLLABORATION PERMITTED.*—Nothing in this
5 section (other than subsection (l)) shall be construed to limit
6 or restrict the ability of a Bell operating company and its
7 affiliates to engage in close collaboration with any manu-
8 facturer of customer premises equipment or telecommuni-
9 cations equipment during the design and development of
10 hardware, software, or combinations thereof related to such
11 equipment.

12 “(g) *ACCESSIBILITY REQUIREMENTS.*—

13 “(1) *MANUFACTURING.*—The Commission shall,
14 within 1 year after the date of enactment of this sec-
15 tion, prescribe such regulations as are necessary to
16 ensure that telecommunications equipment and cus-
17 tomer premises equipment designed, developed, and
18 fabricated pursuant to the authority granted in this
19 section shall be accessible and usable by individuals
20 with disabilities, including individuals with func-
21 tional limitations of hearing, vision, movement, ma-
22 nipulation, speech, and interpretation of information,
23 unless the costs of making the equipment accessible
24 and usable would result in an undue burden or an
25 adverse competitive impact.

1 “(2) *NETWORK SERVICES.*—The Commission
2 shall, within 1 year after the date of enactment of this
3 section, prescribe such regulations as are necessary to
4 ensure that advances in network services deployed by
5 a Bell operating company shall be accessible and usa-
6 ble by individuals whose access might otherwise be
7 impeded by a disability or functional limitation, un-
8 less the costs of making the services accessible and us-
9 able would result in an undue burden or adverse com-
10 petitive impact. Such regulations shall seek to permit
11 the use of both standard and special equipment and
12 seek to minimize the need of individuals to acquire
13 additional devices beyond those used by the general
14 public to obtain such access.

15 “(3) *COMPATIBILITY.*—The regulations pre-
16 scribed under paragraphs (1) and (2) shall require
17 that whenever an undue burden or adverse competi-
18 tive impact would result from the manufacturing or
19 network services requirements in such paragraphs, the
20 manufacturing affiliate that designs, develops, or fab-
21 ricates the equipment or the Bell operating company
22 that deploys the network service shall ensure that the
23 equipment or network service in question is compat-
24 ible with existing peripheral devices or specialized
25 customer premises equipment commonly used by per-

1 *sons with disabilities to achieve access, unless doing*
2 *so would result in an undue burden or adverse com-*
3 *petitive impact.*

4 “(4) *DEFINITIONS.—As used in this subsection:*

5 “(A) *UNDUE BURDEN.—The term ‘undue*
6 *burden’ means significant difficulty or expense.*
7 *In determining whether an activity would result*
8 *in an undue burden, the following factors shall*
9 *be considered:*

10 “(i) *the nature and cost of the activity;*

11 “(ii) *the impact on the operation of the*
12 *facility involved in the manufacturing of*
13 *the equipment or deployment of the network*
14 *service;*

15 “(iii) *the financial resources of the*
16 *manufacturing affiliate in the case of man-*
17 *ufacturing of equipment, for as long as ap-*
18 *plicable regulatory rules prohibit cross-sub-*
19 *sidization of equipment manufacturing with*
20 *revenues from regulated telecommunications*
21 *service or when the manufacturing activities*
22 *are conducted in a separate subsidiary;*

23 “(iv) *the financial resources of the Bell*
24 *operating company in the case of network*
25 *services, or in the case of manufacturing of*

1 *equipment if applicable regulatory rules*
2 *permit cross-subsidization of equipment*
3 *manufacturing with revenues from regu-*
4 *lated telecommunications services and the*
5 *manufacturing activities are not conducted*
6 *in a separate subsidiary; and*

7 “(v) *the type of operation or operations*
8 *of the manufacturing affiliate or Bell oper-*
9 *ating company as applicable.*

10 “(B) *ADVERSE COMPETITIVE IMPACT.—In*
11 *determining whether the activity would result in*
12 *an adverse competitive impact, the following fac-*
13 *tors shall be considered:*

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

20 “(ii) *whether such activity would, with*
21 *respect to the equipment or network service*
22 *in question, put the manufacturing affiliate*
23 *or Bell operating company, as applicable,*
24 *at a competitive disadvantage in compari-*
25 *son with one or more providers of one or*

1 *more competing products and services. This*
2 *factor may only be considered so long as*
3 *competing manufacturers and network serv-*
4 *ice providers are not held to the same obli-*
5 *gation with respect to access by persons*
6 *with disabilities.*

7 *“(C) ACTIVITY.—For the purposes of this*
8 *paragraph, the term ‘activity’ includes—*

9 *“(i) the research, design, development,*
10 *deployment, and fabrication activities nec-*
11 *essary to comply with the requirements of*
12 *this section; and*

13 *“(ii) the acquisition of the related ma-*
14 *terials and equipment components.*

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

18 *“(h) PUBLIC NETWORK ENHANCEMENT.—A Bell oper-*
19 *ating company manufacturing affiliate shall, as a part of*
20 *its overall research and development effort, establish a per-*
21 *manent program for manufacturing research and develop-*
22 *ment of products and applications for the enhancement of*
23 *the public switched telephone network and to promote public*
24 *access to advanced telecommunications services. Such pro-*
25 *gram shall focus its work substantially on developing tech-*

1 *nological advancements in public telephone network appli-*
2 *cations, telecommunication equipment and products, and*
3 *access solutions to new services and technology, including*
4 *access by (1) public institutions, including educational and*
5 *health care institutions; and (2) people with disabilities*
6 *and functional limitations. Notwithstanding the limita-*
7 *tions in subsection (a), a Bell operating company and its*
8 *affiliates may engage in such a program in conjunction*
9 *with a Bell operating company not so affiliated or any of*
10 *its affiliates. The existence or establishment of such a pro-*
11 *gram that is jointly provided by manufacturing affiliates*
12 *of Bell operating companies shall satisfy the requirements*
13 *of this section as it pertains to all such affiliates of a Bell*
14 *operating company.*

15 “(i) *ADDITIONAL RULES AUTHORIZED.*—*The Commis-*
16 *sion may prescribe such additional rules and regulations*
17 *as the Commission determines necessary to carry out the*
18 *provisions of this section. The Commission shall prescribe*
19 *regulations to implement this section within 270 days after*
20 *the date of enactment of this section.*

21 “(j) *ADMINISTRATION AND ENFORCEMENT AUTHOR-*
22 *ITY.*—

23 “(1) *COMMISSION REGULATORY AUTHORITY.*—
24 *For the purposes of administering and enforcing the*
25 *provisions of this section and the regulations pre-*

1 *scribed thereunder, the Commission shall have the*
2 *same authority, power, and functions with respect to*
3 *any Bell operating company or any affiliate thereof*
4 *as the Commission has in administering and enforc-*
5 *ing the provisions of this title with respect to any*
6 *common carrier subject to this Act.*

7 “(2) *PRIVATE ACTIONS.*—*Any common carrier*
8 *that provides telephone exchange service and that is*
9 *injured by an act or omission of a Bell operating*
10 *company or its manufacturing affiliate which violates*
11 *the requirements of paragraph (7) or (8) of subsection*
12 *(c), or the Commission’s regulations implementing*
13 *such paragraphs, may initiate an action in a district*
14 *court of the United States to recover the full amount*
15 *of damages sustained in consequence of any such vio-*
16 *lation and obtain such orders from the court as are*
17 *necessary to terminate existing violations and to pre-*
18 *vent future violations; or such regulated local tele-*
19 *phone exchange carrier may seek relief from the Com-*
20 *mission pursuant to sections 206 through 209.*

21 “(k) *EXISTING MANUFACTURING AUTHORITY.*—*Noth-*
22 *ing in this section shall prohibit any Bell operating com-*
23 *pany from engaging, directly or through any affiliate, in*
24 *any manufacturing activity in which any Bell operating*

1 *company or affiliate was authorized to engage on the date*
2 *of enactment of this section.*

3 “(l) *ANTITRUST LAWS.*—*Nothing in this section shall*
4 *be construed to modify, impair, or supersede the applicabil-*
5 *ity of any of the antitrust laws.*

6 “(m) *DEFINITIONS.*—*As used in this section:*

7 “(1) *The term ‘affiliate’ means any organization*
8 *or entity that, directly or indirectly, owns or controls,*
9 *is owned or controlled by, or is under common owner-*
10 *ship with a Bell operating company. The terms*
11 *‘owns’, ‘owned’, and ‘ownership’ mean an equity in-*
12 *terest of more than 10 percent.*

13 “(2) *The term ‘Bell operating company’ means*
14 *those companies listed in appendix A of the Modifica-*
15 *tion of Final Judgment, and includes any successor*
16 *or assign of any such company, but does not include*
17 *any affiliate of any such company.*

18 “(3) *The term ‘customer premises equipment’*
19 *means equipment employed on the premises of a per-*
20 *son (other than a carrier) to originate, route, or ter-*
21 *minate telecommunications.*

22 “(4) *The term ‘manufacturing’ has the same*
23 *meaning as such term has in the Modification of*
24 *Final Judgment.*

1 “(5) The term ‘manufacturing affiliate’ means
2 an affiliate of a Bell operating company established
3 in accordance with subsection (b) of this section.

4 “(6) The term ‘Modification of Final Judgment’
5 means the decree entered August 24, 1982, in *United*
6 *States v. Western Electric Civil Action No. 82-0192*
7 *(United States District Court, District of Columbia)*,
8 and includes any judgment or order with respect to
9 such action entered on or after August 24, 1982, and
10 before the date of enactment of this section.

11 “(7) The term ‘telecommunications’ means the
12 transmission, between or among points specified by
13 the user, of information of the user’s choosing, without
14 change in the form or content of the information as
15 sent and received, by means of an electromagnetic
16 transmission medium, including all instrumentalities,
17 facilities, apparatus, and services (including the col-
18 lection, storage, forwarding, switching, and delivery
19 of such information) essential to such transmission.

20 “(8) The term ‘telecommunications equipment’
21 means equipment, other than customer premises
22 equipment, used by a carrier to provide telecommuni-
23 cations services, and includes software integral to
24 such equipment (including upgrades).

1 “(9) The term ‘telecommunications service’
2 means the offering for hire of telecommunications fa-
3 cilities, or of telecommunications by means of such fa-
4 cilities.”.

5 **SEC. 202. REGULATION OF ENTRY INTO ALARM MONITOR-**
6 **ING SERVICES.**

7 (a) AMENDMENT.—Title II of the Communications Act
8 is amended by adding at the end the following new section:

9 **“SEC. 230. REGULATION OF ENTRY INTO ALARM MONITOR-**
10 **ING SERVICES.**

11 “(a) REGULATIONS REQUIRED.—The Commission
12 shall prescribe regulations—

13 “(1) to establish such requirements, limitations,
14 or conditions as are (A) necessary and appropriate in
15 the public interest with respect to the provision of
16 alarm monitoring services by Bell operating compa-
17 nies and their affiliates, and (B) effective at such
18 time as a Bell operating company or any of its affili-
19 ates is authorized to provide alarm monitoring serv-
20 ices;

21 “(2) to prohibit Bell operating companies and
22 their affiliates, at that or any earlier time after the
23 date of enactment of this section, from recording in
24 any fashion the occurrence or the contents of calls re-
25 ceived by providers of alarm monitoring services for

1 *the purposes of marketing such services on behalf of*
2 *the Bell operating company, any of its affiliates, or*
3 *any other entity; and*

4 *“(3) to establish procedures for the receipt and*
5 *review of complaints concerning violations by such*
6 *companies of such regulations, or of any other provi-*
7 *sion of this Act or the regulations thereunder, that re-*
8 *sult in material financial harm to a provider of*
9 *alarm monitoring services.*

10 *“(b) EXPEDITED CONSIDERATION OF COMPLAINTS.—*
11 *The procedures established under subsection (a)(3) shall en-*
12 *sure that the Commission will make a final determination*
13 *with respect to any complaint described in such subsection*
14 *within 120 days after receipt of the complaint. If the com-*
15 *plaint contains an appropriate showing that the alleged*
16 *violation occurred, as determined by the Commission in ac-*
17 *cordance with such regulations, the Commission shall, with-*
18 *in 60 days after receipt of the complaint, issue a cease and*
19 *desist order to prevent the Bell operating company and its*
20 *affiliates from continuing to engage in such violation pend-*
21 *ing such final determination.*

22 *“(c) REMEDIES.—The Commission may use any rem-*
23 *edy available under title V of this Act to terminate and*
24 *punish violations described in subsection (a)(2). Such rem-*
25 *edies may include, if the Commission determines that such*

1 violation was willful or repeated, ordering the Bell operat-
2 ing company to cease offering alarm monitoring services.

3 “(d) *RULEMAKING SCHEDULE.*—The Commission
4 shall prescribe the regulations required by subsection (a)(2)
5 within 180 days after the date of enactment of this section
6 and shall prescribe the regulations required by subsection
7 (a)(1) and (a)(3) prior to the date on which any Bell oper-
8 ating company may commence providing alarm monitoring
9 services pursuant to title I of the Antitrust and Commu-
10 nication Reform Act of 1994.

11 “(e) *DEFINITIONS.*—

12 “(1) *IN GENERAL.*—As used in this section, the
13 terms ‘Bell operating company’, ‘affiliate’, and
14 ‘alarm monitoring services’ have the meanings pro-
15 vided in section 106 of the Antitrust and Commu-
16 nication Reform Act of 1994.

17 “(2) *AFFILIATE.*—The term ‘affiliate’ means a
18 person that (directly or indirectly) owns or controls,
19 is owned or controlled by, or is under common owner-
20 ship or control with, another person. For purposes of
21 this paragraph, to own refers to owning an equity in-
22 terest (or the equivalent thereof) of more than 10 per-
23 cent.”.

1 **SEC. 203. REGULATION OF ELECTRONIC PUBLISHING.**

2 *Title II of the Communications Act of 1934 (47 U.S.C.*
3 *201 et seq.) is amended by adding at the end thereof the*
4 *following new section:*

5 **“SEC. 231. REGULATION OF ELECTRONIC PUBLISHING.**

6 *“(a) IN GENERAL.—*

7 *“(1) PROHIBITION.—A Bell operating company*
8 *and any affiliate shall not engage in the provision of*
9 *electronic publishing that is disseminated by means of*
10 *such Bell operating company’s or any of its affiliates’*
11 *basic telephone service.*

12 *“(2) PERMITTED ACTIVITIES OF SEPARATED AF-*
13 *FILIATE.—Nothing in this section shall prohibit a*
14 *separated affiliate or electronic publishing joint ven-*
15 *ture from engaging in the provision of electronic pub-*
16 *lishing or any other lawful service in any area.*

17 *“(3) RULE OF CONSTRUCTION.—Nothing in this*
18 *section shall prohibit a Bell operating company or af-*
19 *filiate from engaging in the provision of any lawful*
20 *service other than electronic publishing in any area*
21 *or from engaging in the provision of electronic pub-*
22 *lishing that is not disseminated by means of such Bell*
23 *operating company’s or any of its affiliates’ basic*
24 *telephone service.*

1 “(b) *SEPARATED AFFILIATE OR ELECTRONIC PUB-*
2 *LISHING JOINT VENTURE REQUIREMENTS.*—A separated
3 *affiliate or electronic publishing joint venture shall—*

4 “(1) *maintain books, records, and accounts that*
5 *are separate from those of the Bell operating company*
6 *and from any affiliate and that record in accordance*
7 *with generally accepted accounting principles all*
8 *transactions, whether direct or indirect, with the Bell*
9 *operating company;*

10 “(2) *not incur debt in a manner that would per-*
11 *mit a creditor upon default to have recourse to the as-*
12 *sets of the Bell operating company;*

13 “(3) *prepare financial statements that are not*
14 *consolidated with those of the Bell operating company*
15 *or an affiliate, provided that consolidated statements*
16 *may also be prepared;*

17 “(4) *file with the Commission annual reports in*
18 *a form substantially equivalent to the Form 10-K re-*
19 *quired by regulations of the Securities and Exchange;*

20 “(5) *after 1 year from the effective date of this*
21 *section, not hire as corporate officers sales and mar-*
22 *keting management personnel whose responsibilities*
23 *at the separated affiliate or electronic publishing joint*
24 *venture will include the geographic area where the*
25 *Bell operating company provides basic telephone serv-*

1 *ice, or network operations personnel whose respon-*
2 *sibilities at the separated affiliate or electronic pub-*
3 *lishing joint venture would require dealing directly*
4 *with the Bell operating company, any person who*
5 *was employed by the Bell operating company during*
6 *the year preceding their date of hire, provided that*
7 *this requirement shall not apply to persons subject to*
8 *a collective bargaining agreement that gives such per-*
9 *sons rights to be employed by a separated affiliate or*
10 *electronic publishing joint venture of the Bell operat-*
11 *ing company;*

12 “(6) not provide any wireline telephone exchange
13 *service in any telephone exchange area where a Bell*
14 *operating company with which it is under common*
15 *ownership or control provides basic telephone ex-*
16 *change service except on a resale basis;*

17 “(7) not use the name, trademarks, or service
18 *marks of an existing Bell operating company except*
19 *for names or service marks that are or were used in*
20 *common with the entity that owns or controls the Bell*
21 *operating company;*

22 “(8) have performed annually by March 31, or
23 *any other date prescribed by the Commission, a com-*
24 *pliance review—*

1 “(A) which is conducted by an independent
2 entity which is subject to professional, legal, and
3 ethical obligations for the purpose of determining
4 compliance during the preceding calendar year
5 with any provision of this section that imposes
6 a requirement on such separated affiliate or elec-
7 tronic publishing joint venture; and

8 “(B) the results of which are maintained by
9 the separated affiliate for a period of 5 years
10 subject to review by any lawful authority;

11 “(9) within 90 days of receiving a review de-
12 scribed in paragraph (8), file a report of any excep-
13 tions and corrective action with the Commission and
14 allow any person to inspect and copy such report sub-
15 ject to reasonable safeguards to protect any propri-
16 etary information contained in such report from
17 being used for purposes other than to enforce or pur-
18 sue remedies under this section.

19 “(c) *BELL OPERATING COMPANY REQUIREMENTS.*—A
20 Bell operating company under common ownership or con-
21 trol with a separated affiliate or electronic publishing joint
22 venture shall—

23 “(1) not provide a separated affiliate any facili-
24 ties, services, or basic telephone service information
25 unless it makes such facilities, services, or informa-

1 *tion available to unaffiliated entities upon request*
2 *and on the same terms and conditions;*

3 *“(2) carry out transactions with a separated af-*
4 *filiate in a manner equivalent to the manner that un-*
5 *related parties would carry out independent trans-*
6 *actions and not based upon the affiliation;*

7 *“(3) carry out transactions with a separated af-*
8 *filiate, which involve the transfer of personnel, assets,*
9 *or anything of value, pursuant to written contracts or*
10 *tariffs that are filed with the Commission and made*
11 *publicly available;*

12 *“(4) carry out transactions with a separated af-*
13 *filiate in a manner that is auditable in accordance*
14 *with generally accepted accounting principles;*

15 *“(5) value any assets that are transferred to a*
16 *separated affiliate at the greater of net book cost or*
17 *fair market value;*

18 *“(6) value any assets that are transferred to the*
19 *Bell operating company by its separated affiliate at*
20 *the lesser of net book cost or fair market value;*

21 *“(7) except for—*

22 *“(A) instances where Commission or State*
23 *regulations permit in-arrears payment for*
24 *tariffed telecommunications services; or*

1 “(B) the investment by an affiliate of divi-
2 dends or profits derived from a Bell operating
3 company,

4 not provide debt or equity financing directly or indi-
5 rectly to a separated affiliate;

6 “(8) comply fully with all applicable Commis-
7 sion and State cost allocation and other accounting
8 rules;

9 “(9) have performed annually by March 31, or
10 any other date prescribed by the Commission, a com-
11 pliance review—

12 “(A) which is conducted by an independent
13 entity which is subject to professional, legal, and
14 ethical obligations for the purpose of determining
15 compliance during the preceding calendar year
16 with any provision of this section that imposes
17 a requirement on such Bell operating company;
18 and

19 “(B) the results of which are maintained by
20 the Bell operating company for a period of 5
21 years subject to review by any lawful authority;

22 “(10) within 90 days of receiving a review de-
23 scribed in paragraph (9), file a report of any excep-
24 tions and corrective action with the Commission and
25 allow any person to inspect and copy such report sub-

1 *ject to reasonable safeguards to protect any propri-*
2 *etary information contained in such report from*
3 *being used for purposes other than to enforce or pur-*
4 *sue remedies under this section;*

5 *“(11) if it provides facilities or services for tele-*
6 *communication, transmission, billing and collection,*
7 *or physical collocation to any electronic publisher, in-*
8 *cluding a separated affiliate, for use with or in con-*
9 *nection with the provision of electronic publishing*
10 *that is disseminated by means of such Bell operating*
11 *company’s or any of its affiliates’ basic telephone*
12 *service, provide to all other electronic publishers the*
13 *same type of facilities and services on request, on the*
14 *same terms and conditions or as required by the*
15 *Commission or a State, and unbundled and individ-*
16 *ually tariffed to the smallest extent that is technically*
17 *feasible and economically reasonable to provide;*

18 *“(12) provide network access and interconnec-*
19 *tions for basic telephone service to electronic publish-*
20 *ers at any technically feasible and economically rea-*
21 *sonable point within the Bell operating company’s*
22 *network and at just and reasonable rates that are*
23 *tariffed (so long as rates for such services are subject*
24 *to regulation) and that are not higher on a per-unit*
25 *basis than those charged for such services to any other*

1 *electronic publisher or any separated affiliate engaged*
2 *in electronic publishing;*

3 *“(13) if prices for network access and inter-*
4 *connection for basic telephone service are no longer*
5 *subject to regulation, provide electronic publishers*
6 *such services on the same terms and conditions as a*
7 *separated affiliate receives such services;*

8 *“(14) if any basic telephone service used by elec-*
9 *tronic publishers ceases to require a tariff, provide*
10 *electronic publishers with such service on the same*
11 *terms and conditions as a separated affiliate receives*
12 *such service;*

13 *“(15) provide reasonable advance notification at*
14 *the same time and on the same terms to all affected*
15 *electronic publishers of information if such informa-*
16 *tion is within any one or more of the following cat-*
17 *egories:*

18 *“(A) such information is necessary for the*
19 *transmission or routing of information by an*
20 *interconnected electronic publisher;*

21 *“(B) such information is necessary to en-*
22 *sure the interoperability of an electronic publish-*
23 *er’s and the Bell operating company’s networks;*

24 *or*

1 “(C) such information concerns changes in
2 basic telephone service network design and tech-
3 nical standards which may affect the provision
4 of electronic publishing;

5 “(16) not directly or indirectly provide anything
6 of monetary value to a separated affiliate unless in
7 exchange for consideration at least equal to the great-
8 er of its net book cost or fair market value, except the
9 investment by an affiliate of dividends or profits de-
10 rived from a Bell operating company;

11 “(17) not discriminate in the presentation or
12 provision of any gateway for electronic publishing
13 services or any electronic directory of information
14 services, which is provided over such Bell operating
15 company’s basic telephone service;

16 “(18) have no directors, officers or employees in
17 common with a separated affiliate;

18 “(19) not own any property in common with a
19 separated affiliate;

20 “(20) not perform hiring or training of person-
21 nel performed on behalf of a separated affiliate;

22 “(21) not perform the purchasing, installation,
23 or maintenance of equipment on behalf of a separated
24 affiliate, except for telephone service that it provides

1 *under tariff or contract subject to the provisions of*
2 *this section; and*

3 *“(22) not perform research and development on*
4 *behalf of a separated affiliate.*

5 *“(d) CUSTOMER PROPRIETARY NETWORK INFORMA-*
6 *TION.—Consistent with section 232 of this Act, a Bell oper-*
7 *ating company or any affiliate shall not provide to any*
8 *electronic publisher, including a separated affiliate or elec-*
9 *tronic publishing joint venture, customer proprietary net-*
10 *work information for use with or in connection with the*
11 *provision of electronic publishing that is disseminated by*
12 *means of such Bell operating company’s or any of its affili-*
13 *ates’ basic telephone service that is not made available by*
14 *the Bell operating company or affiliate to all electronic pub-*
15 *lishers on the same terms and conditions.*

16 *“(e) COMPLIANCE WITH SAFEGUARDS.—No Bell oper-*
17 *ating company or affiliate thereof (including a separated*
18 *affiliate) shall act in concert with another Bell operating*
19 *company or any other entity in order to knowingly and*
20 *willfully violate or evade the requirements of this section.*

21 *“(f) TELEPHONE OPERATING COMPANY DIVIDENDS.—*
22 *Nothing in this section shall prohibit an affiliate from in-*
23 *vesting dividends derived from a Bell operating company*
24 *in its separated affiliate and subsections (i) and (j) of this*
25 *section shall not apply to any such investment.*

1 “(g) *JOINT MARKETING.*—*Except as provided in sub-*
2 *section (h)*—

3 “(1) *a Bell operating company shall not carry*
4 *out any promotion, marketing, sales, or advertising*
5 *for or in conjunction with a separated affiliate; and*

6 “(2) *a Bell operating company shall not carry*
7 *out any promotion, marketing, sales, or advertising*
8 *for or in conjunction with an affiliate that is related*
9 *to the provision of electronic publishing.*

10 “(h) *PERMISSIBLE JOINT ACTIVITIES.*—

11 “(1) *JOINT TELEMARKETING.*—*A Bell operating*
12 *company may provide inbound telemarketing or refer-*
13 *ral services related to the provision of electronic pub-*
14 *lishing for a separated affiliate, electronic publishing*
15 *joint venture, affiliate, or unaffiliated electronic pub-*
16 *lisher, provided that if such services are provided to*
17 *a separated affiliate, electronic publishing joint ven-*
18 *ture, or affiliate, such services shall be made available*
19 *to all electronic publishers on request, on nondiscrim-*
20 *inatory terms, at compensatory prices, and subject to*
21 *regulations of the Commission to ensure that the Bell*
22 *operating company’s method of providing*
23 *telemarketing or referral and its price structure do*
24 *not competitively disadvantage any electronic pub-*
25 *lishers regardless of size, including those which do not*

1 *use the Bell operating company's telemarketing serv-*
2 *ices.*

3 *“(2) TEAMING ARRANGEMENTS.—A Bell operat-*
4 *ing company may engage in nondiscriminatory*
5 *teaming or business arrangements to engage in elec-*
6 *tronic publishing with any separated affiliate or with*
7 *any other electronic publisher provided that the Bell*
8 *operating company only provides facilities, services,*
9 *and basic telephone service information as authorized*
10 *by this section and provided that the Bell operating*
11 *company does not own such teaming or business ar-*
12 *rangement.*

13 *“(3) ELECTRONIC PUBLISHING JOINT VEN-*
14 *TURES.—A Bell operating company or affiliate may*
15 *participate on a nonexclusive basis in electronic pub-*
16 *lishing joint ventures with entities that are not any*
17 *Bell operating company, affiliate, or separated affili-*
18 *ate to provide electronic publishing services, provided*
19 *that the Bell operating company or affiliate has not*
20 *more than a 50 percent direct or indirect equity in-*
21 *terest (or the equivalent thereof) or the right to more*
22 *than 50 percent of the gross revenues under a revenue*
23 *sharing or royalty agreement in any electronic pub-*
24 *lishing joint venture. Officers and employees of a Bell*
25 *operating company or affiliate participating in an*

1 *electronic publishing joint venture may not have more*
2 *than 50 percent of the voting control over the elec-*
3 *tronic publishing joint venture. In the case of joint*
4 *ventures with small, local electronic publishers, the*
5 *Commission for good cause shown may authorize the*
6 *Bell operating company or affiliate to have a larger*
7 *equity interest, revenue share, or voting control but*
8 *not to exceed 80 percent. A Bell operating company*
9 *participating in an electronic publishing joint ven-*
10 *ture may provide promotion, marketing, sales, or ad-*
11 *vertising personnel and services to such joint venture.*

12 “(i) *TRANSACTIONS RELATED TO THE PROVISION OF*
13 *ELECTRONIC PUBLISHING BETWEEN A TELEPHONE OPER-*
14 *ATING COMPANY AND ANY AFFILIATE.—*

15 “(1) *RECORDS OF TRANSACTIONS.—Any provi-*
16 *sion of facilities, services, or basic telephone service*
17 *information, or any transfer of assets, personnel, or*
18 *anything of commercial or competitive value, from a*
19 *Bell operating company to any affiliate related to the*
20 *provision of electronic publishing shall be—*

21 “(A) *recorded in the books and records of*
22 *each entity;*

23 “(B) *auditable in accordance with generally*
24 *accepted accounting principles; and*

1 “(C) pursuant to written contracts or tariffs
2 filed with the Commission or a State and made
3 publicly available.

4 “(2) VALUATION OF TRANSFERS.—Any transfer
5 of assets directly related to the provision of electronic
6 publishing from a Bell operating company to an affil-
7 iate shall be valued at the greater of net book cost or
8 fair market value. Any transfer of assets related to the
9 provision of electronic publishing from an affiliate to
10 the Bell operating company shall be valued at the
11 lesser of net book cost or fair market value.

12 “(3) PROHIBITION OF EVASIONS.—A Bell operat-
13 ing company shall not provide directly or indirectly
14 to a separated affiliate any facilities, services, or
15 basic telephone service information related to the pro-
16 vision of electronic publishing which are not made
17 available to unaffiliated companies on the same terms
18 and conditions.

19 “(j) TRANSACTIONS RELATED TO THE PROVISION OF
20 ELECTRONIC PUBLISHING BETWEEN AN AFFILIATE AND A
21 SEPARATED AFFILIATE.—

22 “(1) RECORDS OF TRANSACTIONS.—Any facili-
23 ties, services, or basic telephone service information
24 provided or any assets, personnel, or anything of com-
25 mercial or competitive value transferred, from a Bell

1 *operating company to any affiliate as described in*
2 *subsection (i) and then provided or transferred to a*
3 *separated affiliate shall be—*

4 *“(A) recorded in the books and records of*
5 *each entity;*

6 *“(B) auditable in accordance with generally*
7 *accepted accounting principles; and*

8 *“(C) pursuant to written contracts or tariffs*
9 *filed with the Commission or a State and made*
10 *publicly available.*

11 *“(2) VALUATION OF TRANSFERS.—Any transfer*
12 *of assets directly related to the provision of electronic*
13 *publishing from a Bell operating company to any af-*
14 *iliate as described in subsection (i) and then trans-*
15 *ferred to a separated affiliate shall be valued at the*
16 *greater of net book cost or fair market value. Any*
17 *transfer of assets related to the provision of electronic*
18 *publishing from a separated affiliate to any affiliate*
19 *and then transferred to the Bell operating company*
20 *as described in subsection (i) shall be valued at the*
21 *lesser of net book cost or fair market value.*

22 *“(3) PROHIBITION OF EVASIONS.—An affiliate*
23 *shall not provide directly or indirectly to a separated*
24 *affiliate any facilities, services, or basic telephone*
25 *service information related to the provision of elec-*

1 *tronic publishing which are not made available to un-*
2 *affiliated companies on the same terms and condi-*
3 *tions.*

4 “(k) *OTHER ELECTRONIC PUBLISHERS.—Except as*
5 *provided in subsection (h)(3)—*

6 “(1) *A Bell operating company shall not have*
7 *any officers, employees, property, or facilities in com-*
8 *mon with any entity whose principal business is pub-*
9 *lishing of which a part is electronic publishing.*

10 “(2) *No officer or employee of a Bell operating*
11 *company shall serve as a director of any entity whose*
12 *principal business is publishing of which a part is*
13 *electronic publishing.*

14 “(3) *For the purposes of paragraphs (1) and (2),*
15 *a Bell operating company or an affiliate that owns*
16 *an electronic publishing joint venture shall not be*
17 *deemed to be engaged in the electronic publishing*
18 *business solely because of such ownership.*

19 “(4) *A Bell operating company shall not carry*
20 *out—*

21 “(A) *any marketing or sales for any entity*
22 *that engages in electronic publishing; or*

23 “(B) *any hiring of personnel, purchasing,*
24 *or production,*

25 *for any entity that engages in electronic publishing.*

1 “(5) *The Bell operating company shall not pro-*
2 *vide any facilities, services, or basic telephone service*
3 *information to any entity that engages in electronic*
4 *publishing, for use with or in connection with the*
5 *provision of electronic publishing that is disseminated*
6 *by means of such Bell operating company’s or any of*
7 *its affiliates’ basic telephone service, unless equivalent*
8 *facilities, services, or information are made available*
9 *on equivalent terms and conditions to all.*

10 “(l) *TRANSITION.—Any electronic publishing service*
11 *being offered to the public by a Bell operating company*
12 *or affiliate on the date of enactment of this section shall*
13 *have one year from such date of enactment to comply with*
14 *the requirements of this section.*

15 “(m) *SUNSET.—The provisions of this section shall*
16 *cease to apply to a Bell operating company or its affiliate*
17 *or separated affiliate in any telephone exchange area on*
18 *June 30, 2000.*

19 “(n) *PRIVATE RIGHT OF ACTION.—*

20 “(1) *DAMAGES.—Any person claiming that any*
21 *act or practice of any Bell operating company, affili-*
22 *ate, or separated affiliate constitutes a violation of*
23 *this section may file a complaint with the Commis-*
24 *sion or bring suit as provided in section 207 of this*
25 *Act (47 U.S.C. 207), and such Bell operating com-*

1 pany, affiliate, or separated affiliate shall be liable as
2 provided in section 206 of this Act (47 U.S.C. 207);
3 except that damages may not be awarded for a viola-
4 tion that is discovered by a compliance review as re-
5 quired by subsection (b)(8) or (c)(9) of this section
6 and corrected within 90 days.

7 “(2) *CEASE AND DESIST ORDERS.*—In addition
8 to the provisions of paragraph (1), any person claim-
9 ing that any act or practice of any Bell operating
10 company, affiliate, or separated affiliate constitutes a
11 violation of this section may make application to the
12 Commission for an order to cease and desist such vio-
13 lation or may make application in any district court
14 of the United States of competent jurisdiction for an
15 order enjoining such acts or practices or for an order
16 compelling compliance with such requirement.

17 “(o) *ANTITRUST LAWS.*—Nothing in this section shall
18 be construed to modify, impair, or supersede the applicabil-
19 ity of any of the antitrust laws.

20 “(p) *EQUAL EMPLOYMENT OPPORTUNITIES.*—Any
21 Bell operating company, and any affiliate or joint venture
22 or other business partner of a Bell operating company, that
23 is engaged in the provision of electronic publishing shall
24 be subject to the provisions of section 634 of this Act, except
25 that the Commission shall prescribe by regulation appro-

1 *priate job classifications in lieu of the job classifications*
2 *in subsection (d)(3)(A) of such section.*

3 *“(q) DEFINITIONS.—As used in this section—*

4 *“(1) The term ‘affiliate’ means any entity that,*
5 *directly or indirectly, owns or controls, is owned or*
6 *controlled by, or is under common ownership or con-*
7 *trol with, a Bell operating company. Such term shall*
8 *not include a separated affiliate.*

9 *“(2) The term ‘basic telephone service’ means*
10 *any wireline telephone exchange service or wireline*
11 *telephone exchange facility provided by a Bell operat-*
12 *ing company in a telephone exchange area, except—*

13 *“(A) a competitive wireline telephone ex-*
14 *change service provided in a telephone exchange*
15 *area where another entity provides a wireline*
16 *telephone exchange service that was provided on*
17 *January 1, 1984, and*

18 *“(B) a commercial mobile service provided*
19 *by an affiliate that is required by the Commis-*
20 *sion to be a corporate entity separate from the*
21 *Bell operating company.*

22 *“(3) The term ‘basic telephone service informa-*
23 *tion’ means network and customer information of a*
24 *Bell operating company and other information ac-*

1 *quired by a Bell operating company as a result of its*
2 *engaging in the provision of basic telephone service.*

3 *“(4) The term ‘control’ has the meaning that it*
4 *has in 17 C.F.R. 240.12b-2, the regulations promul-*
5 *gated by the Securities and Exchange Commission*
6 *pursuant to the Securities Exchange Act of 1934 (15*
7 *U.S.C. 78a et seq.) or any successor provision to such*
8 *section.*

9 *“(5)(A) The term ‘electronic publishing’ means*
10 *the dissemination, provision, publication, or sale to*
11 *an unaffiliated entity or person, using a Bell operat-*
12 *ing company’s basic telephone service of—*

13 *“(i) news,*

14 *“(ii) business, financial, legal, consumer, or*
15 *credit material;*

16 *“(iii) editorials;*

17 *“(iv) columns;*

18 *“(v) sports reporting;*

19 *“(vi) features;*

20 *“(vii) advertising;*

21 *“(viii) photos or images;*

22 *“(ix) archival or research material;*

23 *“(x) legal notices or public records;*

1 “(xi) scientific, educational, instructional,
2 technical, professional, trade, or other literary
3 materials; or

4 “(xii) other like or similar information.

5 “(B) The term ‘electronic publishing’ shall not
6 include the following network services:

7 “(i) ‘Information access’ as that term is de-
8 fined by the Modification of Final Judgment.

9 “(ii) The transmission of information as a
10 common carrier.

11 “(iii) The transmission of information as
12 part of a gateway to an information service that
13 does not involve the generation or alteration of
14 the content of information, including data trans-
15 mission, address translation, protocol conversion,
16 billing management, introductory information
17 content, and navigational systems that enable
18 users to access electronic publishing services,
19 which do not affect the presentation of such elec-
20 tronic publishing services to users.

21 “(iv) Voice storage and retrieval services,
22 including voice messaging and electronic mail
23 services.

24 “(v) Level 2 gateway services as those serv-
25 ices are defined by the Commission’s Second Re-

1 *port and Order, Recommendation to Congress*
2 *and Second Further Notice of Proposed Rule-*
3 *making in CC Docket No. 87-266 dated August*
4 *14, 1992.*

5 *“(vi) Data processing services that do not*
6 *involve the generation or alteration of the con-*
7 *tent of information.*

8 *“(vii) Transaction processing systems that*
9 *do not involve the generation or alteration of the*
10 *content of information.*

11 *“(viii) Electronic billing or advertising of a*
12 *Bell operating company’s regulated telecommuni-*
13 *cations services.*

14 *“(ix) Language translation.*

15 *“(x) Conversion of data from one format to*
16 *another.*

17 *“(xi) The provision of information nec-*
18 *essary for the management, control, or operation*
19 *of a telephone company telecommunications sys-*
20 *tem.*

21 *“(xii) The provision of directory assistance*
22 *that provides names, addresses, and telephone*
23 *numbers and does not include advertising.*

24 *“(xiii) Caller identification services.*

1 “(xiv) *Repair and provisioning databases*
2 *for telephone company operations.*

3 “(xv) *Credit card and billing validation for*
4 *telephone company operations.*

5 “(xvi) *911-E and other emergency assist-*
6 *ance databases.*

7 “(xvii) *Any other network service of a type*
8 *that is like or similar to these network services*
9 *and that does not involve the generation or alter-*
10 *ation of the content of information.*

11 “(xviii) *Any upgrades to these network serv-*
12 *ices that do not involve the generation or alter-*
13 *ation of the content of information.*

14 “(C) *The term ‘electronic publishing’ also shall*
15 *not include—*

16 “(i) *full motion video entertainment on de-*
17 *mand; and*

18 “(ii) *video programming as defined in sec-*
19 *tion 602 of the Communications Act of 1934.*

20 “(6) *The term ‘electronic publishing joint ven-*
21 *ture’ means a joint venture owned by a Bell operating*
22 *company or affiliate that engages in the provision of*
23 *electronic publishing which is disseminated by means*
24 *of such Bell operating company’s or any of its affili-*
25 *ates’ basic telephone service.*

1 “(7) The term ‘entity’ means any organization,
2 and includes corporations, partnerships, sole propri-
3 etorships, associations, and joint ventures.

4 “(8) The term ‘inbound telemarketing’ means the
5 marketing of property, goods, or services by telephone
6 to a customer or potential customer who initiated the
7 call.

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

14 “(10) The term ‘separated affiliate’ means a cor-
15 poration under common ownership or control with a
16 Bell operating company that does not own or control
17 a Bell operating company and is not owned or con-
18 trolled by a Bell operating company and that engages
19 in the provision of electronic publishing which is dis-
20 seminated by means of such Bell operating company’s
21 or any of its affiliates’ basic telephone service.

22 “(11) The term ‘Bell operating company’ means
23 the corporations subject to the Modification of Final
24 Judgment and listed in Appendix A thereof, or any
25 entity owned or controlled by such corporation, or

1 *any successor or assign of such corporation, but does*
2 *not include an electronic publishing joint venture*
3 *owned by such corporation or entity.”.*

4 **SEC. 204. PRIVACY OF CUSTOMER INFORMATION.**

5 *(a) PRIVACY OF CUSTOMER PROPRIETARY NETWORK*
6 *INFORMATION.—*

7 *(1) AMENDMENT.—Title II of the Communica-*
8 *tions Act of 1934 is amended by adding at the end*
9 *the following new section:*

10 **“SEC. 232. PRIVACY OF CUSTOMER PROPRIETARY NETWORK**
11 **INFORMATION.**

12 *“(a) DUTY TO PROVIDE SUBSCRIBER LIST INFORMA-*
13 *TION.—Notwithstanding subsections (b), (c), and (d), a car-*
14 *rier that provides subscriber list information to any affili-*
15 *ated or unaffiliated service provider or person shall provide*
16 *subscriber list information on a timely and unbundled*
17 *basis, under nondiscriminatory and reasonable rates, terms,*
18 *and conditions, to any person upon request.*

19 *“(b) PRIVACY REQUIREMENTS FOR COMMON CAR-*
20 *RIERS.—A carrier—*

21 *“(1) shall not, except as required by law or with*
22 *the approval of the customer to which the information*
23 *relates—*

24 *“(A) use customer proprietary network in-*
25 *formation in the provision of any service except*

1 to the extent necessary (i) in the provision of
2 common carrier communications services, (ii) in
3 the provision of a service necessary to or used in
4 the provision of common carrier communications
5 services, or (iii) to continue to provide a particu-
6 lar information service that the carrier provided
7 as of March 15, 1994 to persons who were cus-
8 tomers of such service on that date;

9 “(B) use customer proprietary network in-
10 formation in the identification or solicitation of
11 potential customers for any service other than
12 the service from which such information is de-
13 rived;

14 “(C) use customer proprietary network in-
15 formation in the provision of customer premises
16 equipment; or

17 “(D) disclose customer proprietary network
18 information to any person except to the extent
19 necessary to permit such person to provide serv-
20 ices or products that are used in and necessary
21 to the provision by such carrier of the services
22 described in subparagraph (A);

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

1 “(3) shall, whenever such carrier provides any
2 aggregate information, or whenever such carrier pro-
3 vides any compiled information derived from cus-
4 tomer proprietary network information or any data
5 base to any person to whom disclosure is permitted
6 by paragraph (1), notify the Commission of the avail-
7 ability of such aggregate information or compiled in-
8 formation and shall—

9 “(A) provide such aggregate information on
10 reasonable terms and conditions to any other
11 service or equipment provider upon reasonable
12 request therefor; and

13 “(B) provide such compiled information on
14 reasonable terms and conditions to any other
15 person to whom disclosure is permitted by para-
16 graph (1) upon reasonable request therefor; and

17 “(4) except for disclosures permitted by para-
18 graph (1)(D), shall not unreasonably discriminate be-
19 tween affiliated and unaffiliated service or equipment
20 providers in providing access to, or in the use and
21 disclosure of, individual and aggregate information or
22 compiled information made available consistent with
23 this subsection.

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

4 “(1) *to render, bill, and collect for the services*
5 *identified in subparagraph (A);*

6 “(2) *to render, bill, and collect for any other*
7 *service that the customer has requested;*

8 “(3) *to protect the rights or property of the car-*
9 *rier;*

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

13 “(5) *to provide any inbound telemarketing, refer-*
14 *ral, or administrative services to the customer for the*
15 *duration of the call if such call was initiated by the*
16 *customer and the customer approves of the use of such*
17 *information to provide such service.*

18 “(d) *EXEMPTION PERMITTED.*—*The Commission may,*
19 *by rule, exempt from the requirements of subsection (b) car-*
20 *riers that have, together with any affiliated carriers, in the*
21 *aggregate nationwide, fewer than 500,000 access lines in-*
22 *stalled if the Commission determines that such exemption*
23 *is in the public interest or if compliance with the require-*
24 *ments would impose an undue economic burden on the car-*
25 *rier.*

1 “(e) *REGULATIONS.*—*The Commission shall prescribe*
2 *regulations to carry out this section within 1 year after the*
3 *date of its enactment.*”

4 “(f) *DEFINITION OF AGGREGATE INFORMATION.*—*For*
5 *purposes of this section, the term ‘aggregate information’*
6 *means collective data that relates to a group or category*
7 *of services or customers, from which individual customer*
8 *identities and characteristics have been removed.’.*”

9 (2) *CONFORMING AMENDMENT.*—*Section 3 of the*
10 *Communications Act of 1934 (47 U.S.C. 153) is*
11 *amended by adding at the end the following:*

12 “(gg) *‘Customer proprietary network information’*
13 *means—*

14 “(1) *information which relates to the quantity,*
15 *technical configuration, type, destination, and*
16 *amount of use of telephone exchange service or tele-*
17 *phone toll service subscribed to by any customer of a*
18 *carrier, and is made available to the carrier by the*
19 *customer solely by virtue of the carrier-customer rela-*
20 *tionship;*

21 “(2) *information contained in the bills pertain-*
22 *ing to telephone exchange service or telephone toll*
23 *service received by a customer of a carrier; and*

24 “(3) *such other information concerning the cus-*
25 *tomers as is available to the local exchange carrier by*

1 *virtue of the customer's use of the carrier's telephone*
2 *exchange service or interexchange telephone services,*
3 *and specified as within the definition of such term by*
4 *such rules as the Commission shall prescribe consist-*
5 *ent with the public interest;*

6 *except that such term does not include subscriber list infor-*
7 *mation.*

8 “(hh) ‘Subscriber list information’ means any infor-

9 mation—

10 “(1) identifying the names of subscribers of a

11 carrier and such subscribers’ telephone numbers, ad-

12 dresses, or advertising classifications, or any com-

13 bination of such names, numbers, addresses, or classi-

14 fications; and

15 “(2) that the carrier or an affiliate has published

16 or accepted for future publication.”.

17 (b) *IMPACT OF CONVERGING COMMUNICATIONS TECH-*
18 *NOLOGIES ON CONSUMER PRIVACY.—*

19 (1) *PROCEEDING REQUIRED.—*Within one year

20 after the date of enactment of this Act, the Commis-

21 sion shall commence a proceeding—

22 (A) to examine the impact of the integra-

23 tion into interconnected communications net-

24 works of wireless telephone, cable, satellite, and

1 *other technologies on the privacy rights and rem-*
2 *edies of the consumers of those technologies;*

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

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

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

19 *(E) to prepare recommendations to the Con-*
20 *gress for any legislative changes required to cor-*
21 *rect such defects.*

22 *(2) SUBJECTS FOR EXAMINATION.—In conduct-*
23 *ing the examination required by paragraph (1), the*
24 *Commission shall determine whether consumers are*

1 *able, and, if not, the methods by which consumers*
2 *may be enabled—*

3 *(A) to have knowledge that consumer infor-*
4 *mation is being collected about them through*
5 *their utilization of various communications tech-*
6 *nologies;*

7 *(B) to have notice that such information*
8 *could be used, or is intended to be used, by the*
9 *entity collecting the data for reasons unrelated to*
10 *the original communications, or that such infor-*
11 *mation could be sold (or is intended to be sold)*
12 *to other companies or entities; and*

13 *(C) to stop the reuse or sale of that informa-*
14 *tion.*

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

18 *(A) complete any rulemaking required to re-*
19 *visе Commission regulations to correct defects in*
20 *such regulations identified pursuant to para-*
21 *graph (1); and*

22 *(B) submit to the Congress a report con-*
23 *taining the recommendations required by para-*
24 *graph (1)(C).*

1 **TITLE III—FEDERAL COMMU-**
2 **NICATIONS COMMISSION RE-**
3 **SOURCES**

4 **SEC. 301. AUTHORIZATION OF APPROPRIATIONS.**

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

10 (b) *EFFECT ON FEES.*—For purposes of section
11 9(b)(2), additional amounts appropriated pursuant to sub-
12 section (a) shall be construed to be changes in the amounts
13 appropriated for the performance of activities described in
14 section 9(a).

15 **SECTION 1. SHORT TITLES.**

16 (a) **SHORT TITLE OF THIS ACT.**—This Act
17 may be cited as the “Antitrust and Commu-
18 nications Reform Act of 1994”.

19 (b) **SHORT TITLES OF DIVISIONS OF THIS**
20 **ACT.**—(1) Title I of this Act may be cited as the
21 “Antitrust Reform Act of 1994”.

22 (2) Title II of this Act may be cited as the
23 “Communications Reform Act of 1994”.

1 **TITLE I—SUPERSESION OF THE**
2 **MODIFICATION OF FINAL**
3 **JUDGMENT**

4 **SEC. 101. AUTHORIZATION FOR BELL OPERATING COM-**
5 **PANY TO ENTER COMPETITIVE LINES OF**
6 **BUSINESS.**

7 **(a) APPLICATION.—**

8 **(1) IN GENERAL.—After the applicable**
9 **date specified in paragraph (2), a Bell op-**
10 **erating company may apply to the Attor-**
11 **ney General and the Federal Communica-**
12 **tions Commission for authorization, not-**
13 **withstanding the Modification of Final**
14 **Judgment—**

15 **(A) to provide alarm monitoring**
16 **services, or**

17 **(B) to provide interexchange tele-**
18 **communications services.**

19 **The application shall describe with par-**
20 **ticularity the nature and scope of the ac-**
21 **tivity, and of each product market or**
22 **service market, and each geographic**
23 **market, for which authorization is**
24 **sought.**

1 **(2) APPLICABLE DATES.—For purposes**
2 **of paragraph (1), the applicable date after**
3 **which a Bell operating company may**
4 **apply for authorization shall be—**

5 **(A) the date of the enactment of**
6 **this Act, with respect to providing**
7 **interexchange telecommunications**
8 **services, and**

9 **(B) the date that occurs 66**
10 **months after the date of the enact-**
11 **ment of this Act, with respect to pro-**
12 **viding alarm monitoring services.**

13 **(3) INTERAGENCY NOTIFICATION.—When-**
14 **ever the Attorney General or the Federal**
15 **Communications Commission receives an**
16 **application made under paragraph (1),**
17 **the recipient of the application shall no-**
18 **tify the other of such receipt.**

19 **(4) PUBLICATION.—Not later than 10**
20 **days after receiving an application made**
21 **under paragraph (1), the Attorney Gen-**
22 **eral and the Federal Communications**
23 **Commission jointly shall publish the ap-**
24 **plication in the Federal Register.**

1 **(b) SEPARATE DETERMINATIONS BY THE AT-**
2 **TORNEY GENERAL AND THE FEDERAL COMMU-**
3 **NICATIONS COMMISSION.—**

4 **(1) COMMENT PERIOD.—Not later than**
5 **45 days after an application is published**
6 **under subsection (a)(4), interested per-**
7 **sons may submit written comments to the**
8 **Attorney General, to the Federal Commu-**
9 **nications Commission, or to both regard-**
10 **ing the application. Submitted comments**
11 **shall be available to the public.**

12 **(2) INTERAGENCY CONSULTATION.—Be-**
13 **fore making their respective determina-**
14 **tions under paragraph (3), the Attorney**
15 **General and the Federal Communications**
16 **Commission shall consult with each other**
17 **regarding the application involved.**

18 **(3) DETERMINATIONS.—(A) After the**
19 **time for comment under paragraph (1)**
20 **has expired, but not later than 180 days**
21 **after receiving an application made**
22 **under subsection (a)(1), the Attorney**
23 **General and the Federal Communications**
24 **Commission each shall issue separately a**
25 **written determination, on the record**

1 **after an opportunity for a hearing, with**
2 **respect to granting the authorization for**
3 **which the Bell operating company has**
4 **applied.**

5 **(B) Such determination shall be based**
6 **on a preponderance of the evidence.**

7 **(C) Any person who would be threat-**
8 **ened with loss or damage as a result of**
9 **the approval of the authorization re-**
10 **quested shall be permitted to participate**
11 **as a party in the proceeding on which the**
12 **determination is based.**

13 **(D)(i) The Attorney General shall ap-**
14 **prove the granting of the authorization**
15 **requested in the application only to the**
16 **extent that the Attorney General finds**
17 **that there is no substantial possibility**
18 **that such company or its affiliates could**
19 **use monopoly power to impede competi-**
20 **tion in the market such company seeks to**
21 **enter. The Attorney General shall deny**
22 **the remainder of the requested author-**
23 **ization.**

24 **(ii) The Federal Communications**
25 **Commission shall approve the granting of**

1 **the requested authorization only to the**
2 **extent that the Commission finds that**
3 **granting the requested authorization is**
4 **consistent with the public interest, con-**
5 **venience, and necessity. The Commission**
6 **shall deny the remainder of the re-**
7 **quested authorization.**

8 **(iii) Notwithstanding clauses (i) and**
9 **(ii), within 180 days after the date of the**
10 **enactment of this Act, the Attorney Gen-**
11 **eral and the Federal Communications**
12 **Commission shall each prescribe regula-**
13 **tions to establish procedures and criteria**
14 **for the expedited determination and ap-**
15 **proval of applications for authorization**
16 **to provide interexchange telecommuni-**
17 **cations services that are incidental to the**
18 **provision of another service which the**
19 **Bell operating company may lawfully**
20 **provide. Before prescribing such regula-**
21 **tions, the Attorney General and the Com-**
22 **mission shall consult with respect to such**
23 **regulations.**

24 **(E) In making its determination**
25 **under subparagraph (D)(ii) regarding the**

1 **public interest, convenience, and neces-**
2 **sity, the Commission shall take into ac-**
3 **count—**

4 **(i) the probability that granting**
5 **the requested authorization will se-**
6 **cure reduced rates for consumers of**
7 **the services that are the subject of**
8 **the application, especially residential**
9 **subscribers,**

10 **(ii) whether granting the re-**
11 **quested authorization will result in**
12 **increases in rates for consumers of**
13 **exchange service,**

14 **(iii) the extent to which granting**
15 **the requested authorization will ex-**
16 **pedite the delivery of new services**
17 **and products to consumers,**

18 **(iv) the extent to which the Com-**
19 **mission's regulations, or other laws**
20 **or regulations, will preclude the ap-**
21 **plicant from engaging in predatory**
22 **pricing or other anticompetitive eco-**
23 **nom ic practices with respect to the**
24 **services that are the subject of the**
25 **application,**

1 (v) the extent to which granting
2 the requested authorization will per-
3 mit collusive acts or practices be-
4 tween or among Bell operating com-
5 panies that are not affiliates of each
6 other,

7 (vi) whether granting the re-
8 quested authorization will result, di-
9 rectly or indirectly, in increasing con-
10 centration among providers of the
11 service that is the subject of the ap-
12 plication to such an extent that con-
13 sumers will not be protected from
14 rates that are unjust or unreasonable
15 or that are unjustly or unreasonably
16 discriminatory, and

17 (vii) in the case of an application
18 to provide alarm monitoring services,
19 whether the Commission has the ca-
20 pability to enforce effectively the reg-
21 ulations established pursuant to sec-
22 tion 230 of the Communications Act
23 of 1934 as added by this Act.

24 (F) A determination that approves the
25 granting of any part of a requested au-

1 **thorization shall describe with particu-**
2 **larity the nature and scope of the activ-**
3 **ity, and of each product market or serv-**
4 **ice market, and each geographic market,**
5 **to which approval applies.**

6 **(4) PUBLICATION.—Not later than 10**
7 **days after issuing a determination under**
8 **paragraph (3), the Attorney General or**
9 **the Federal Communications Commis-**
10 **sion, as the case may be, shall publish in**
11 **the Federal Register a brief description**
12 **of the determination.**

13 **(5) FINALITY.—A determination made**
14 **under paragraph (3) shall be final unless**
15 **a civil action with respect to such deter-**
16 **mination is timely commenced under sub-**
17 **section (c)(1).**

18 **(6) AUTHORIZATION GRANTED.—A re-**
19 **quested authorization is granted to the**
20 **extent that—**

21 **(A)(i) both the Attorney General**
22 **and the Federal Communications**
23 **Commission approve under para-**
24 **graph (3) the granting of the author-**
25 **ization, and**

1 (ii) neither of their approvals is
2 vacated or reversed as a result of ju-
3 dicial review authorized by sub-
4 section (c), or

5 (B) as a result of such judicial re-
6 view of either or both determinations,
7 both the Attorney General and the
8 Federal Communications Commission
9 approve the granting of the requested
10 authorization.

11 **(c) JUDICIAL REVIEW.—**

12 (1) COMMENCEMENT OF ACTION.—Not
13 later than 45 days after a determination
14 by the Attorney General or the Federal
15 Communications Commission is pub-
16 lished under subsection (b)(4), the Bell
17 operating company that applied to the
18 Attorney General and the Federal Com-
19 munications Commission under sub-
20 section (a), or any person who would be
21 threatened with loss or damage as a re-
22 sult of the determination regarding such
23 company's engaging in the activity de-
24 scribed in such company's application,
25 may commence an action in the United

1 **States Court of Appeals for the District of**
2 **Columbia Circuit against the Attorney**
3 **General or the Federal Communications**
4 **Commission, as the case may be, for judi-**
5 **cial review of the determination regard-**
6 **ing the application.**

7 **(2) CERTIFICATION OF RECORD.—As part**
8 **of the answer to the complaint, the Attor-**
9 **ney General or the Federal Communica-**
10 **tions Commission, as the case may be,**
11 **shall file in such court a certified copy of**
12 **the record upon which the determination**
13 **is based.**

14 **(3) CONSOLIDATION OF ACTIONS.—The**
15 **court shall consolidate for review all civil**
16 **actions commenced under this subsection**
17 **with respect to the application.**

18 **(4) JUDGMENT.—(A) The court shall**
19 **enter a judgment after reviewing the de-**
20 **termination in accordance with section**
21 **706 of title 5 of the United States Code.**

22 **(B) A judgment—**

23 **(i) affirming any part of the deter-**
24 **mination that approves granting all**

1 **or part of the requested authoriza-**
2 **tion, or**

3 **(ii) reversing any part of the de-**
4 **termination that denies all or part of**
5 **the requested authorization,**
6 **shall describe with particularity the na-**
7 **ture and scope of the activity, and of**
8 **each product market or service market,**
9 **and each geographic market, to which**
10 **the affirmance or reversal applies.**

11 **SEC. 102. AUTHORIZATION AS PREREQUISITE.**

12 **(a) PREREQUISITE.—Until a Bell operating**
13 **company is so authorized in accordance with**
14 **section 101, it shall be unlawful for such com-**
15 **pany, directly or through an affiliated enter-**
16 **prise, to engage in an activity described in**
17 **section 101(a)(1).**

18 **(b) EXCEPTIONS.—Except with respect to**
19 **providing alarm monitoring services, sub-**
20 **section (a) shall not prohibit a Bell operating**
21 **company from engaging, at any time after the**
22 **date of the enactment of this Act—**

23 **(1) in any activity as authorized by an**
24 **order entered by the United States Dis-**
25 **trict Court for the District of Columbia**

1 **pursuant to section VII or VIII(C) of the**
2 **Modification of Final Judgment, if—**

3 **(A) such order was entered on or**
4 **before the date of the enactment of**
5 **this Act, or**

6 **(B) a request for such authoriza-**
7 **tion was pending before such court**
8 **on the date of the enactment of this**
9 **Act,**

10 **(2) in providing intrastate**
11 **interexchange telecommunications serv-**
12 **ices if—**

13 **(A) after the date of the enact-**
14 **ment of this Act, the State involved**
15 **approves or authorizes such company**
16 **to provide such services, after taking**
17 **into account the potential effects of**
18 **such approval or authorization on**
19 **competition and the public interest,**

20 **(B) not less than 120 days before**
21 **such company offers to provide such**
22 **services, such company gives notice**
23 **to the public and the Attorney Gen-**
24 **eral that such approval or authoriza-**
25 **tion is final and that all time for any**

1 **State appeal or review has expired,**
2 **and**

3 **(C) the Attorney General fails to**
4 **commence a civil action in accord-**
5 **ance with subsection (c) to enjoin**
6 **such company from providing such**
7 **services,**

8 **(3) in providing interexchange tele-**
9 **communications services through resale**
10 **of telecommunications services pur-**
11 **chased from a person who is not an affli-**
12 **ated enterprise of such company if—**

13 **(A) the State involved approves or**
14 **authorizes persons that are not affli-**
15 **ated enterprises of such company to**
16 **provide intraexchange toll tele-**
17 **communications services in such a**
18 **manner that customers in such State**
19 **have the ability to route automati-**
20 **cally, without the use of any access**
21 **code, their intraexchange toll tele-**
22 **communications to the telecommuni-**
23 **cations services provider of the cus-**
24 **tomers' designation from among 2 or**

1 **more telecommunications services**
2 **providers (including such company),**

3 **(B) not less than 120 days before**
4 **such company so provides such**
5 **interexchange telecommunications**
6 **services, such company gives notice**
7 **to the public and the Attorney Gen-**
8 **eral that such approval or authoriza-**
9 **tion is final and that all time for any**
10 **State appeal or review has expired,**
11 **and**

12 **(C) the Attorney General fails to**
13 **commence a civil action in accord-**
14 **ance with subsection (c) to enjoin**
15 **such company from so providing such**
16 **interexchange telecommunications**
17 **services,**

18 **(4) in providing interexchange tele-**
19 **communication services to provide cable**
20 **service if such telecommunication serv-**
21 **ices are provided using receive-only an-**
22 **tennas, satellite master antenna tele-**
23 **vision facilities, and satellite earth sta-**
24 **tions, owned and operated solely for the**
25 **purpose of providing such cable service,**

1 **(5) in providing interexchange tele-**
2 **communication services to provide cable**
3 **service within any cable system serving a**
4 **franchised territory,**

5 **(6) in providing interexchange tele-**
6 **communication services to provide sat-**
7 **ellite transmission of cable television pro-**
8 **gramming from a satellite uplink site to**
9 **cable systems or video dialtone systems,**
10 **solely for the purpose of providing cable**
11 **service, and**

12 **(7) in providing interexchange tele-**
13 **communication services—**

14 **(A) to provide interexchange**
15 **intersystem handoff of wireless mo-**
16 **bile radio transmission between adja-**
17 **cent wireless systems to allow the**
18 **continuation of calls in progress with-**
19 **out interruption or degradation of**
20 **service due to the movement of the**
21 **mobile telephone unit or the charac-**
22 **teristics of radio propagation,**

23 **(B) to carry data concerning—**

1 **(i) the location and status of a**
2 **customer's wireless mobile radio**
3 **unit, and**

4 **(ii) the customer's instruc-**
5 **tions for the handling of incoming**
6 **communications between such**
7 **company's wireless mobile radio**
8 **system and a wireless system lo-**
9 **cated in another exchange area,**

10 **whenever such customer is located**
11 **beyond the boundaries of the wireless**
12 **system to which such customer is**
13 **subscribed, or**

14 **(C) to provide for the origination**
15 **of one-way paging messages and for**
16 **access to voice storage and retrieval**
17 **services provided by such company in**
18 **conjunction with its paging services,**

19 **if such company provides commercial**
20 **mobile service in any exchange area in-**
21 **volved, if the transmission facilities used**
22 **to provide such interexchange tele-**
23 **communication services are leased by**
24 **such company on terms and conditions**
25 **(including price) no more favorable than**

1 **those available to the competitors of such**
2 **company, and if such company provides**
3 **exchange access and interconnection to**
4 **such commercial mobile service on terms**
5 **and conditions (including price) no more**
6 **favorable than those offered by the com-**
7 **petitors of such company.**

8 **(c) CIVIL ACTION.—(1) For the purpose of**
9 **paragraph (2) or (3) of subsection (b), the At-**
10 **torney General may commence a civil action,**
11 **not later than 120 days after receiving the no-**
12 **tice required by subparagraph (B) of such**
13 **paragraph, to enjoin such company from pro-**
14 **viding interexchange telecommunications**
15 **services pursuant to such paragraph if the At-**
16 **torney General determines that there is a sub-**
17 **stantial possibility that such company or its**
18 **affiliates could use monopoly power to im-**
19 **pede competition in the market it seeks to**
20 **enter with respect to such interexchange tele-**
21 **communications services.**

22 **(2) In the 10-day period beginning—**

23 **(A) on the date a civil action is com-**
24 **menced under paragraph (1), or**

1 **(B) 120 days after receiving such no-**
2 **tice,**
3 **whichever is earlier, the Attorney General**
4 **shall publish in the Federal Register the de-**
5 **termination that the Attorney General has**
6 **made with respect to the existence of such**
7 **substantial possibility.**

8 **SEC. 103. LIMITATIONS ON MANUFACTURING AND PROVID-**
9 **ING EQUIPMENT.**

10 **(a) ABSOLUTE LIMITATION.—Until the expi-**
11 **ration of the 1-year period beginning on the**
12 **date of the enactment of this Act, it shall be**
13 **unlawful for a Bell operating company, di-**
14 **rectly or through an affiliated enterprise, to**
15 **manufacture or provide telecommunications**
16 **equipment, or to manufacture customer prem-**
17 **ises equipment.**

18 **(b) QUALIFIED LIMITATION.—**

19 **(1) REQUIRED CONDITIONS.—After the**
20 **expiration of the 1-year period beginning**
21 **on the date of the enactment of this Act,**
22 **it shall be lawful for a Bell operating**
23 **company, directly or through an affli-**
24 **ated enterprise, to manufacture or pro-**
25 **vide telecommunications equipment, or**

1 **to manufacture customer premises equip-**
2 **ment, only as described in a notification**
3 **to the Attorney General that meets the**
4 **requirements of paragraph (2) and only**
5 **if—**

6 **(A) such company submits to the**
7 **Attorney General, at any time after**
8 **the date of the enactment of this Act,**
9 **the notification described in para-**
10 **graph (2) and such additional mate-**
11 **rial and information described in**
12 **such paragraph as the Attorney Gen-**
13 **eral may request, and complies with**
14 **the waiting period specified in para-**
15 **graph (3), and**

16 **(B)(i) the waiting period specified**
17 **in paragraph (3) expires without the**
18 **commencement of a civil action by**
19 **the Attorney General in accordance**
20 **with paragraph (4) to enjoin such**
21 **company from engaging in the activ-**
22 **ity described in such notification, or**

23 **(ii) before the expiration of such**
24 **waiting period, the Attorney General**
25 **notifies such company in writing that**

1 **the Attorney General does not intend**
2 **to commence such a civil action with**
3 **respect to such activity.**

4 **(2) NOTIFICATION.—The notification re-**
5 **quired by paragraph (1) shall be in such**
6 **form and shall contain such documentary**
7 **material and information relevant to the**
8 **proposed activity as is necessary and ap-**
9 **propriate for the Attorney General to de-**
10 **termine whether there is no substantial**
11 **possibility that such company or its affili-**
12 **ates could use monopoly power to impede**
13 **competition in the market such company**
14 **seeks to enter for such activity.**

15 **(3) WAITING PERIOD.—The waiting pe-**
16 **riod referred to in paragraph (1) is the 1-**
17 **year period beginning on the date the no-**
18 **tification required by such paragraph is**
19 **received by the Attorney General.**

20 **(4) CIVIL ACTION.—Not later than 1**
21 **year after receiving a notification re-**
22 **quired by paragraph (1), the Attorney**
23 **General may commence a civil action in**
24 **an appropriate district court of the Unit-**
25 **ed States to enjoin the Bell operating**

1 **company from engaging in the activity**
2 **described in such notification, if the At-**
3 **torney General determines that there is a**
4 **substantial possibility that such company**
5 **or its affiliates could use monopoly power**
6 **to impede competition in the market it**
7 **seeks to enter with respect to such activ-**
8 **ity.**

9 **(c) EXCEPTION FOR PREVIOUSLY AUTHORIZED**
10 **ACTIVITIES.—Subsections (a) and (b) shall not**
11 **prohibit a Bell operating company from en-**
12 **gaging, at any time after the date of the enact-**
13 **ment of this Act, in any activity as authorized**
14 **by an order entered by the United States Dis-**
15 **trict Court for the District of Columbia pursu-**
16 **ant to section VII or VIII(C) of the Modifica-**
17 **tion of Final Judgment, if—**

18 **(1) such order was entered on or be-**
19 **fore the date of the enactment of this Act,**
20 **or**

21 **(2) a request for such authorization**
22 **was pending before such court on the**
23 **date of the enactment of this Act.**

1 **SEC. 104. ANTICOMPETITIVE TYING ARRANGEMENTS.**

2 **A Bell operating company with monopoly**
3 **power in any exchange service market shall**
4 **not tie (directly or indirectly) in any relevant**
5 **market the sale of any product or service to**
6 **the provision of any telecommunications serv-**
7 **ice, if the effect of such tying may be to sub-**
8 **stantially lessen competition, or to tend to**
9 **create a monopoly, in any line of commerce.**

10 **SEC. 105. ENFORCEMENT.**

11 **(a) EQUITABLE POWERS OF UNITED STATES**
12 **ATTORNEYS.—It shall be the duty of the several**
13 **United States attorneys, under the direction**
14 **of the Attorney General, to institute proceed-**
15 **ings in equity in their respective districts to**
16 **prevent and restrain violations of this Act.**

17 **(b) CRIMINAL LIABILITY.—Whoever know-**
18 **ingly engages or knowingly attempts to en-**
19 **gage in an activity that is prohibited by sec-**
20 **tion 102, 103, or 104 shall be guilty of a felony,**
21 **and on conviction thereof, shall be punished**
22 **to the same extent as a person is punished**
23 **upon conviction of a violation of section 1 of**
24 **the Sherman Act (15 U.S.C. 1).**

1 **(c) PRIVATE RIGHT OF ACTION.—Any person**
2 **who is injured in its business or property by**
3 **reason of a violation of this Act—**

4 **(1) may bring a civil action in any dis-**
5 **trict court of the United States in the dis-**
6 **trict in which the defendant resides or is**
7 **found or has an agent, without respect to**
8 **the amount in controversy, and**

9 **(2) shall recover threefold the dam-**
10 **ages sustained, and the cost of suit (in-**
11 **cluding a reasonable attorney’s fee).**

12 **The court may award under this section, pur-**
13 **suant to a motion by such person promptly**
14 **made, simple interest on actual damages for**
15 **the period beginning on the date of service of**
16 **such person’s pleading setting forth a claim**
17 **under this Act and ending on the date of judg-**
18 **ment, or for any shorter period therein, if the**
19 **court finds that the award of such interest for**
20 **such period is just in the circumstances.**

21 **(d) PRIVATE INJUNCTIVE RELIEF.—Any per-**
22 **son shall be entitled to sue for and have in-**
23 **junctive relief, in any court of the United**
24 **States having jurisdiction over the parties,**
25 **against threatened loss or damage by a viola-**

1 **tion of this Act, when and under the same con-**
2 **ditions and principles as injunctive relief is**
3 **available under section 16 of the Clayton Act**
4 **(15 U.S.C. 26). In any action under this sub-**
5 **section in which the plaintiff substantially**
6 **prevails, the court shall award the cost of suit,**
7 **including a reasonable attorney's fee, to such**
8 **plaintiff.**

9 **(e) JURISDICTION.—(1) Subject to para-**
10 **graph (2), the courts of the United States shall**
11 **have exclusive jurisdiction to make deter-**
12 **minations with respect to a duty, claim, or**
13 **right arising under this Act, other than deter-**
14 **minations authorized to be made by the Attor-**
15 **ney General and the Federal Communications**
16 **Commission under section 101(b)(3).**

17 **(2) The United States Court of Appeals for**
18 **the District of Columbia shall have exclusive**
19 **jurisdiction to review determinations made**
20 **under section 101(b)(3).**

21 **(3) No action commenced to assert or en-**
22 **force a duty, claim, or right arising under this**
23 **Act shall be stayed pending any such deter-**
24 **mination by the Attorney General or the Fed-**
25 **eral Communications Commission.**

1 **(f) SUBPOENAS.—In an action commenced**
2 **under this Act, a subpoena requiring the at-**
3 **tendance of a witness at a hearing or a trial**
4 **may be served at any place within the United**
5 **States.**

6 **(g) APPLICABILITY OF OTHER LAWS TO EN-**
7 **FORCEMENT OF THIS TITLE.—**

8 **(1) SECTION 5 OF THE CLAYTON ACT.—**
9 **Section 5 of the Clayton Act (15 U.S.C. 16)**
10 **shall apply with respect to actions under**
11 **this section brought by or on behalf of**
12 **the United States.**

13 **(2) ANTITRUST CIVIL PROCESS ACT.—Sec-**
14 **tion 2(a) of the Antitrust Civil Process**
15 **Act (15 U.S.C. 1311(a)) is amended—**

16 **(A) in paragraph (1) by striking**
17 **“and” at the end,**

18 **(B) in paragraph (2) by striking**
19 **the period at the end and inserting**
20 **“and”, and**

21 **(C) by adding at the end the fol-**
22 **lowing:**

23 **“(3) title I of the Antitrust and**
24 **Communications Reform Act of**
25 **1994.”.**

1 **SEC. 106. DEFINITIONS.**

2 **For purposes of this title:**

3 **(1) AFFILIATE.—The term “affiliate”**
4 **means a person that (directly or indi-**
5 **rectly) owns or controls, is owned or con-**
6 **trolled by, or is under common owner-**
7 **ship or control with, another person. For**
8 **purposes of this paragraph, to own refers**
9 **to owning an equity interest (or the**
10 **equivalent thereof) of more than 50 per-**
11 **cent.**

12 **(2) AFFILIATED ENTERPRISE.—The term**
13 **“affiliated enterprise” has the meaning**
14 **given such term under the Modification**
15 **of Final Judgment.**

16 **(3) ALARM MONITORING SERVICE.—The**
17 **term “alarm monitoring service” means a**
18 **service that uses a device located at a**
19 **residence, place of business, or other**
20 **fixed premises—**

21 **(A) to receive signals from other**
22 **devices located at or about such**
23 **premises regarding a possible threat**
24 **at such premises to life, safety, or**
25 **property, from burglary, fire, vandal-**

1 **ism, bodily injury, or other emer-**
2 **gency, and**

3 **(B) to transmit a signal regarding**
4 **such threat by means of transmission**
5 **facilities of a Bell operating company**
6 **or one of its affiliates to a remote**
7 **monitoring center to alert a person at**
8 **such center of the need to inform the**
9 **customer or another person or police,**
10 **fire, rescue, security, or public safety**
11 **personnel of such threat,**

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

16 **(4) ANTITRUST LAWS.—The term “anti-**
17 **trust laws” has the meaning given it in**
18 **subsection (a) of the first section of the**
19 **Clayton Act (15 U.S.C. 12(a)), except that**
20 **such term includes the Act of June 19,**
21 **1936 (49 Stat. 1526; 15 U.S.C. 13 et seq.),**
22 **commonly known as the Robinson Pat-**
23 **man Act, and section 5 of the Federal**
24 **Trade Commission Act (15 U.S.C. 45) to**

1 **the extent that such section 5 applies to**
2 **unfair methods of competition.**

3 **(5) BELL OPERATING COMPANY.—The**
4 **term “Bell operating company” means—**

5 **(A) Bell Telephone Company of**
6 **Nevada, Illinois Bell Telephone Com-**
7 **pany, Indiana Bell Telephone Com-**
8 **pany, Incorporated, Michigan Bell**
9 **Telephone Company, New England**
10 **Telephone and Telegraph Company,**
11 **New Jersey Bell Telephone Company,**
12 **New York Telephone Company, US**
13 **West Communications Company,**
14 **South Central Bell Telephone Com-**
15 **pany, Southern Bell Telephone and**
16 **Telegraph Company, Southwestern**
17 **Bell Telephone Company, The Bell**
18 **Telephone Company of Pennsylvania,**
19 **The Chesapeake and Potomac Tele-**
20 **phone Company, The Chesapeake and**
21 **Potomac Telephone Company of**
22 **Maryland, The Chesapeake and Poto-**
23 **mac Telephone Company of Virginia,**
24 **The Chesapeake and Potomac Tele-**
25 **phone Company of West Virginia, The**

1 **Diamond State Telephone Company,**
2 **The Ohio Bell Telephone Company,**
3 **The Pacific Telephone and Telegraph**
4 **Company, or Wisconsin Telephone**
5 **Company,**

6 **(B) any successor or assign of any**
7 **such company, or**

8 **(C) any affiliate of any person de-**
9 **scribed in subparagraph (A) or (B).**

10 **(6) CABLE SERVICE.—The term “cable**
11 **service” has the meaning given such term**
12 **in section 602 of the Communications Act**
13 **of 1934 (47 U.S.C. 522).**

14 **(7) CARRIER.—The term “carrier” has**
15 **the meaning given such term in section 3**
16 **of the Communications Act of 1934 (47**
17 **U.S.C. 153).**

18 **(8) COMMERCIAL MOBILE SERVICE.—The**
19 **term “commercial mobile service” has the**
20 **meaning given such term in section 332**
21 **of the Communications Act of 1934 (47**
22 **U.S.C. 332).**

23 **(9) CUSTOMER PREMISES EQUIPMENT.—**
24 **The term “customer premises equipment”**
25 **means equipment employed on the prem-**

1 **ises of a person (other than a carrier) to**
2 **originate, route, or terminate tele-**
3 **communications, and includes software**
4 **integral to such equipment.**

5 **(10) ELECTRONIC PUBLISHING.—The**
6 **term “electronic publishing” means the**
7 **provision via telecommunications, by a**
8 **Bell operating company or an affiliate of**
9 **such company to a person other than an**
10 **affiliate of such company, of informa-**
11 **tion—**

12 **(A) which such company or affili-**
13 **ate has, or has caused to be, origi-**
14 **nated, authored, compiled, collected,**
15 **or edited, or**

16 **(B) in which such company or af-**
17 **iliate has a direct or indirect finan-**
18 **cial or proprietary interest.**

19 **(11) EXCHANGE ACCESS.—The term “ex-**
20 **change access” means exchange services**
21 **provided for the purpose of originating**
22 **or terminating interexchange tele-**
23 **communications.**

24 **(12) EXCHANGE AREA.—The term “ex-**
25 **change area” means a contiguous geo-**

1 **graphic area established by a Bell operat-**
2 **ing company such that no exchange area**
3 **includes points within more than 1 met-**
4 **ropolitan statistical area, consolidated**
5 **metropolitan statistical area, or State, ex-**
6 **cept as expressly permitted under the**
7 **Modification of Final Judgment before**
8 **the date of the enactment of this Act.**

9 **(13) EXCHANGE SERVICE.—The term**
10 **“exchange service” means a telecommuni-**
11 **cations service provided within an ex-**
12 **change area.**

13 **(14) INFORMATION.—The term “infor-**
14 **mation” means knowledge or intelligence**
15 **represented by any form of writing, signs,**
16 **signals, pictures, sounds, or other sym-**
17 **bols.**

18 **(15) INTEREXCHANGE TELECOMMUNI-**
19 **CATIONS.—The term “interexchange tele-**
20 **communications” means telecommuni-**
21 **cations between a point located in an ex-**
22 **change area and a point located outside**
23 **such exchange area. Such term does not**
24 **include alarm monitoring services or**
25 **electronic publishing.**

1 **(16) MANUFACTURE.**—The term “manu-
2 **facture”** has the meaning given such term
3 **under the Modification of Final Judg-**
4 **ment.**

5 **(17) MODIFICATION OF FINAL JUDG-**
6 **MENT.**—The term “**Modification of Final**
7 **Judgment”** means the order entered Au-
8 **gust 24, 1982, in the antitrust action**
9 **styled United States v. Western Electric,**
10 **Civil Action No. 82-0192, in the United**
11 **States District Court for the District of**
12 **Columbia, and includes any judgment or**
13 **order with respect to such action entered**
14 **on or after August 24, 1982.**

15 **(18) PERSON.**—The term “**person**” has
16 **the meaning given it in subsection (a) of**
17 **the first section of the Clayton Act (15**
18 **U.S.C. 12(a)).**

19 **(19) STATE.**—The term “**State**” means
20 **any of the several States, the District of**
21 **Columbia, the Commonwealth of Puerto**
22 **Rico, the Commonwealth of the Northern**
23 **Mariana Islands, the Federated States of**
24 **Micronesia, the Republic of the Marshall**

1 **Islands, Palau, or any territory or posses-**
2 **sion of the United States.**

3 **(20) TELECOMMUNICATIONS.—The term**
4 **“telecommunications” means the trans-**
5 **mission of information between points by**
6 **electromagnetic means.**

7 **(21) TELECOMMUNICATIONS EQUIP-**
8 **MENT.—The term “telecommunications**
9 **equipment” means equipment, other than**
10 **customer premises equipment, used by a**
11 **carrier to provide a telecommunications**
12 **service, and includes software integral to**
13 **such equipment.**

14 **(22) TELECOMMUNICATIONS SERVICE.—**
15 **The term “telecommunications service”**
16 **means the offering for hire of trans-**
17 **mission facilities or of telecommuni-**
18 **cations by means of such facilities. Such**
19 **term does not include alarm monitoring**
20 **services or electronic publishing.**

21 **(23) TRANSMISSION FACILITIES.—The**
22 **term “transmission facilities” means**
23 **equipment (including wire, cable, micro-**
24 **wave, satellite, and fiber-optics) that**
25 **transmits information by electromagnetic**

1 **means or that directly supports such**
2 **transmission, but does not include cus-**
3 **tomers premises equipment.**

4 **SEC. 107. RELATIONSHIP TO OTHER LAWS.**

5 **(a) MODIFICATION OF FINAL JUDGMENT.—**

6 **This Act shall supersede the Modification of**
7 **Final Judgment, except that this Act shall not**
8 **affect—**

9 **(1) section I of the Modification of**
10 **Final Judgment, relating to AT&T reorga-**
11 **nization,**

12 **(2) section II(A) (including Appendix**
13 **B) and II(B) of the Modification of Final**
14 **Judgment, relating to equal access and**
15 **nondiscrimination,**

16 **(3) section III of the Modification of**
17 **Final Judgment, relating to applicability**
18 **and effect,**

19 **(4) section IV(F) and IV(I) of the**
20 **Modification of Final Judgment, with re-**
21 **spect to the requirements included in the**
22 **definitions of “exchange access” and “in-**
23 **formation access”,**

1 **(5) section VIII(B) of the Modification**
2 **of Final Judgment, relating to printed ad-**
3 **vertising directories,**

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

7 **(7) section VIII(F) of the Modification**
8 **of Final Judgment, relating to less than**
9 **equal exchange access, and**

10 **(8) section VIII(G) of the Modification**
11 **of Final Judgment, relating to transfer of**
12 **AT&T assets, including all exceptions**
13 **granted thereunder before the date of the**
14 **enactment of this Act, and**

15 **(9) with respect to the parts of the**
16 **Modification of Final Judgment de-**
17 **scribed in paragraphs (1) through (7)—**

18 **(A) section III of the Modification**
19 **of Final Judgment, relating to appli-**
20 **cability,**

21 **(B) section IV of the Modification**
22 **of Final Judgment, relating to defini-**
23 **tions,**

1 **(C) section V of the Modification**
2 **of Final Judgment, relating to compli-**
3 **ance,**

4 **(D) section VI of the Modification**
5 **of Final Judgment, relating to**
6 **visitorial provisions,**

7 **(E) section VII of the Modification**
8 **of Final Judgment, relating to reten-**
9 **tion of jurisdiction, and**

10 **(F) section VIII(I) of the Modifica-**
11 **tion of Final Judgment, relating to**
12 **the court's sua sponte authority.**

13 **(b) ANTITRUST LAWS.—Except as provided**
14 **in section 105(g), nothing in this Act shall be**
15 **construed to modify, impair, or supersede the**
16 **applicability of any of the antitrust laws.**

17 **(c) FEDERAL, STATE, AND LOCAL LAW.—(1)**
18 **Except as provided in paragraph (2), this Act**
19 **shall not be construed to modify, impair, or**
20 **supersede Federal, State, or local law unless**
21 **expressly so provided in this Act.**

22 **(2) This Act shall supersede State and**
23 **local law to the extent that such law would**
24 **impair or prevent the operation of this Act.**

1 **(d) CUMULATIVE PENALTY.—Any penalty**
2 **imposed, or relief granted, under this title**
3 **shall be in addition to, and not in lieu of, any**
4 **penalty or relief authorized by any other law**
5 **to be imposed with respect to conduct de-**
6 **scribed in this title.**

7 **TITLE II—REGULATION OF MAN-**
8 **UFACTURING, ALARM SERV-**
9 **ICES AND ELECTRONIC PUB-**
10 **LISHING BY BELL OPERATING**
11 **COMPANIES**

12 **SEC. 201. REGULATION OF MANUFACTURING BY BELL OP-**
13 **ERATING COMPANIES.**

14 **Title II of the Communications Act of 1934**
15 **(47 U.S.C. 201 et seq.) is amended by adding**
16 **at the end the following new section:**

17 **“SEC. 229. REGULATION OF MANUFACTURING BY BELL**
18 **OPERATING COMPANIES.**

19 **“(a) GENERAL AUTHORITY.—Subject to the**
20 **requirements of this section and the regula-**
21 **tions prescribed thereunder, but notwith-**
22 **standing any restriction or obligation im-**
23 **posed before the date of enactment of this sec-**
24 **tion pursuant to the Modification of Final**
25 **Judgment on the lines of business in which a**

1 **Bell operating company may engage, a Bell**
2 **operating company, through an affiliate of**
3 **that company, may manufacture and provide**
4 **telecommunications equipment and manufac-**
5 **ture customer premises equipment.**

6 **“(b) SEPARATE MANUFACTURING AFFILI-**
7 **ATE.—Any manufacturing or provision author-**
8 **ized under subsection (a) shall be conducted**
9 **only through an affiliate that is separate from**
10 **any Bell operating company.**

11 **“(c) COMMISSION REGULATION OF MANUFAC-**
12 **TURING AFFILIATE.—**

13 **“(1) REGULATIONS REQUIRED.—The**
14 **Commission shall prescribe regulations**
15 **to ensure that Bell operating companies**
16 **and their affiliates comply with the re-**
17 **quirements of this section.**

18 **“(2) BOOKS, RECORDS, ACCOUNTS.—A**
19 **manufacturing affiliate required by sub-**
20 **section (b) shall maintain books, records,**
21 **and accounts separate from its affiliated**
22 **Bell operating company which identify**
23 **all financial transactions between the**
24 **manufacturing affiliate and its affiliated**
25 **Bell operating company and, even if such**

1 **manufacturing affiliate is not a publicly**
2 **held corporation, prepare financial state-**
3 **ments which are in compliance with fi-**
4 **nancial reporting requirements under**
5 **the Federal securities laws for publicly**
6 **held corporations, file such statements**
7 **with the Commission, and make such**
8 **statements available for public**
9 **inspection.**

10 **“(3) IN-KIND BENEFITS TO AFFILIATE.—**
11 **Consistent with the provisions of this sec-**
12 **tion, neither a Bell operating company**
13 **nor any of its nonmanufacturing affili-**
14 **ates shall perform sales, advertising, in-**
15 **stallation, production, or maintenance**
16 **operations for a manufacturing affiliate,**
17 **except that—**

18 **“(A) a Bell operating company**
19 **and its nonmanufacturing affiliates**
20 **may sell, advertise, install, and main-**
21 **tain telecommunications equipment**
22 **and customer premises equipment**
23 **after acquiring such equipment from**
24 **their manufacturing affiliate; and**

1 **“(B) institutional advertising, of a**
2 **type not related to specific tele-**
3 **communications equipment, carried**
4 **out by the Bell operating company or**
5 **its affiliates, shall be permitted.**

6 **“(4) DOMESTIC MANUFACTURING RE-**
7 **QUIRED.—**

8 **“(A) GENERAL RULE.—A manufac-**
9 **turing affiliate required by sub-**
10 **section (b) shall conduct all of its**
11 **manufacturing within the United**
12 **States and, except as otherwise pro-**
13 **vided in this paragraph, all compo-**
14 **nent parts of customer premises**
15 **equipment manufactured by such af-**
16 **iliate, and all component parts of**
17 **telecommunications equipment man-**
18 **ufactured by such affiliate, shall have**
19 **been manufactured within the United**
20 **States.**

21 **“(B) EXCEPTION.—Such affiliate**
22 **may use component parts manufac-**
23 **tured outside the United States if—**

24 **“(i) such affiliate first makes a**
25 **good faith effort to obtain equiva-**

1 **lent component parts manufac-**
2 **tured within the United States at**
3 **reasonable prices, terms, and con-**
4 **ditions; and**

5 **“(ii) for the aggregate of tele-**
6 **communications equipment and**
7 **customer premises equipment**
8 **manufactured and sold in the**
9 **United States by such affiliate,**
10 **the cost of the components manu-**
11 **factured outside the United**
12 **States contained in all such**
13 **equipment does not exceed 40**
14 **percent of the sales revenue de-**
15 **rived in any calendar year from**
16 **such equipment.**

17 **“(C) CERTIFICATION REQUIRED.—**

18 **Any such affiliate that uses compo-**
19 **nent parts manufactured outside the**
20 **United States in the manufacture of**
21 **telecommunications equipment and**
22 **customer premises equipment within**
23 **the United States shall—**

24 **“(i) certify to the Commission**
25 **that a good faith effort was made**

1 **to obtain equivalent parts manu-**
2 **factured within the United States**
3 **at reasonable prices, terms, and**
4 **conditions, which certification**
5 **shall be filed on a quarterly basis**
6 **with the Commission and list**
7 **component parts, by type, manu-**
8 **factured outside the United**
9 **States; and**

10 **“(ii) certify to the Commission**
11 **on an annual basis that such affil-**
12 **iate complied with the require-**
13 **ments of subparagraph (B)(ii), as**
14 **adjusted in accordance with sub-**
15 **paragraph (G).**

16 **“(D) REMEDIES FOR FAILURES.—(i)**
17 **If the Commission determines, after**
18 **reviewing the certification required**
19 **in subparagraph (C)(i), that such af-**
20 **filiate failed to make the good faith**
21 **effort required in subparagraph (B)(i)**
22 **or, after reviewing the certification**
23 **required in subparagraph (C)(ii), that**
24 **such affiliate has exceeded the per-**
25 **centage specified in subparagraph**

1 **(B)(ii), the Commission may impose**
2 **penalties or forfeitures as provided**
3 **for in title V of this Act.**

4 **“(ii) Any supplier claiming to be**
5 **damaged because a manufacturing af-**
6 **iliate failed to make the good faith**
7 **effort required in subparagraph (B)(i)**
8 **may make complaint to the Commis-**
9 **sion as provided for in section 208 of**
10 **this Act, or may bring suit for the re-**
11 **covery of actual damages for which**
12 **such supplier claims such affiliate**
13 **may be liable under the provisions of**
14 **this Act in any district court of the**
15 **United States of competent jurisdic-**
16 **tion.**

17 **“(E) ANNUAL REPORT.—The Com-**
18 **mission, in consultation with the Sec-**
19 **retary of Commerce, shall, on an an-**
20 **nuual basis, determine the cost of com-**
21 **ponent parts manufactured outside**
22 **the United States contained in all**
23 **telecommunications equipment and**
24 **customer premises equipment sold in**
25 **the United States as a percentage of**

1 **the revenues from sales of such**
2 **equipment in the previous calendar**
3 **year.**

4 **“(F) USE OF INTELLECTUAL PROP-**
5 **ERTY IN MANUFACTURE.—Notwithstand-**
6 **ing subparagraph (A), a manufactur-**
7 **ing affiliate may use intellectual**
8 **property created outside the United**
9 **States in the manufacture of tele-**
10 **communications equipment and cus-**
11 **tomers premises equipment in the**
12 **United States. A component manufac-**
13 **tured using such intellectual prop-**
14 **erty shall not be treated for purposes**
15 **of subparagraph (B)(ii) as a compo-**
16 **nent manufactured outside the Unit-**
17 **ed States solely on the basis of the**
18 **use of such intellectual property.**

19 **“(G) RESTRICTIONS ON COMMISSION**
20 **AUTHORITY.—The Commission may not**
21 **waive or alter the requirements of**
22 **this paragraph, except that the Com-**
23 **mission, on an annual basis, shall ad-**
24 **just the percentage specified in sub-**
25 **paragraph (B)(ii) to the percentage**

1 **determined by the Commission, in**
2 **consultation with the Secretary of**
3 **Commerce, pursuant to subparagraph**
4 **(E).**

5 **“(5) INSULATION OF RATE PAYERS FROM**
6 **MANUFACTURING AFFILIATE DEBT.—Any**
7 **debt incurred by any such manufacturing**
8 **affiliate may not be issued by its affli-**
9 **ated Bell operating company and such**
10 **manufacturing affiliate shall be prohib-**
11 **ited from incurring debt in a manner that**
12 **would permit a creditor, on default, to**
13 **have recourse to the assets of its affli-**
14 **ated Bell operating company.**

15 **“(6) RELATION TO OTHER AFFILIATES.—A**
16 **manufacturing affiliate required by sub-**
17 **section (b) shall not be required to oper-**
18 **ate separately from the other affiliates of**
19 **its affiliated Bell operating company, but**
20 **if an affiliate of a Bell operating company**
21 **becomes affiliated with a manufacturing**
22 **entity, such affiliate shall be treated as a**
23 **manufacturing affiliate of that Bell oper-**
24 **ating company and shall comply with the**
25 **requirements of this section.**

1 **“(7) AVAILABILITY OF EQUIPMENT TO**
2 **OTHER CARRIERS.—A manufacturing affili-**
3 **ate required by subsection (b) shall make**
4 **available, without discrimination or self-**
5 **preference as to price, delivery, terms, or**
6 **conditions, to any common carrier any**
7 **telecommunications equipment that is**
8 **used in the provision of telephone ex-**
9 **change service and that is manufactured**
10 **by such affiliate so long as each such pur-**
11 **chasing carrier—**

12 **“(A) does not either manufacture**
13 **telecommunications equipment, or**
14 **have an affiliated telecommuni-**
15 **cations equipment manufacturing en-**
16 **tity; or**

17 **“(B) agrees to make available, to**
18 **the Bell operating company affiliated**
19 **with such manufacturing affiliate or**
20 **any common carrier affiliate of such**
21 **Bell operating company, any tele-**
22 **communications equipment that is**
23 **used in the provision of telephone ex-**
24 **change service and that is manufac-**
25 **tured by such purchasing carrier or**

1 **by any entity or organization with**
2 **which such purchasing carrier is af-**
3 **iliated.**

4 **“(8) SALES PRACTICES OF MANUFACTUR-**
5 **ING AFFILIATES.—**

6 **“(A) PROHIBITION OF DISCONTINU-**
7 **ATION OF EQUIPMENT FOR WHICH THERE**
8 **IS REASONABLE DEMAND.—A manufac-**
9 **turing affiliate required by sub-**
10 **section (b) shall not discontinue or**
11 **restrict sales to a common carrier of**
12 **any telecommunications equipment**
13 **that is used in the provision of tele-**
14 **phone exchange service and that**
15 **such affiliate manufactures for sale**
16 **as long as there is reasonable demand**
17 **for the equipment by such carriers;**
18 **except that such sales may be discon-**
19 **tinued or restricted if such manufac-**
20 **turing affiliate demonstrates to the**
21 **Commission that it is not making a**
22 **profit, under a marginal cost stand-**
23 **ard implemented by the Commission**
24 **by regulation, on the sale of such**
25 **equipment.**

1 **“(B) DETERMINATIONS OF REASON-**
2 **ABLE DEMAND.—Within 60 days after**
3 **receipt of an application under sub-**
4 **paragraph (A), the Commission shall**
5 **reach a determination as to the exist-**
6 **ence of reasonable demand for pur-**
7 **poses of such subparagraph. In mak-**
8 **ing such determination the Commis-**
9 **sion shall consider—**

10 **“(i) whether the continued**
11 **manufacture of the equipment**
12 **will be profitable;**

13 **“(ii) whether the equipment is**
14 **functionally or technologically**
15 **obsolete;**

16 **“(iii) whether the components**
17 **necessary to manufacture the**
18 **equipment continue to be avail-**
19 **able;**

20 **“(iv) whether alternatives to**
21 **the equipment are available in**
22 **the market; and**

23 **“(v) such other factors as the**
24 **Commission deems necessary and**
25 **proper.**

1 **“(9) JOINT PLANNING OBLIGATIONS.—**
2 **Each Bell operating company shall, con-**
3 **sistent with the antitrust laws (including**
4 **title I of the Antitrust and Communica-**
5 **tions Reform Act of 1994), engage in joint**
6 **network planning and design with other**
7 **contiguous common carriers providing**
8 **telephone exchange service, but agree-**
9 **ment with such other carriers shall not**
10 **be required as a prerequisite for such in-**
11 **troduction or deployment.**

12 **“(d) INFORMATION REQUIREMENTS.—**

13 **“(1) FILING OF INFORMATION ON PROTO-**
14 **COLS AND TECHNICAL REQUIREMENTS.—Each**
15 **Bell operating company shall, in accord-**
16 **ance with regulations prescribed by the**
17 **Commission, maintain and file with the**
18 **Commission full and complete informa-**
19 **tion with respect to the protocols and**
20 **technical requirements for connection**
21 **with and use of its telephone exchange**
22 **service facilities. Each such company**
23 **shall report promptly to the Commission**
24 **any material changes or planned changes**
25 **to such protocols and requirements, and**

1 **the schedule for implementation of such**
2 **changes or planned changes.**

3 **“(2) FILING AS PREREQUISITE TO DISCLO-**
4 **SURE TO AFFILIATE.—A Bell operating com-**
5 **pany shall not disclose to any of its affili-**
6 **ates any information required to be filed**
7 **under paragraph (1) unless that informa-**
8 **tion is filed promptly, as required by reg-**
9 **ulation by the Commission.**

10 **“(3) ACCESS BY COMPETITORS TO INFOR-**
11 **MATION.—The Commission may prescribe**
12 **such additional regulations under this**
13 **subsection as may be necessary to ensure**
14 **that manufacturers in competition with a**
15 **Bell operating company’s manufacturing**
16 **affiliate have access to the information**
17 **with respect to the protocols and tech-**
18 **nic requirements for connection with**
19 **and use of its telephone exchange service**
20 **facilities required for such competition**
21 **that such company makes available to its**
22 **manufacturing affiliate.**

23 **“(4) PLANNING INFORMATION.—Each**
24 **Bell operating company shall provide, to**
25 **contiguous common carriers providing**

1 **telephone exchange service, timely infor-**
2 **mation on the planned deployment of**
3 **telecommunications equipment.**

4 **“(e) ADDITIONAL COMPETITION REQUIRE-**
5 **MENTS.—The Commission shall prescribe reg-**
6 **ulations requiring that any Bell operating**
7 **company which has an affiliate that engages**
8 **in any manufacturing authorized by sub-**
9 **section (a) shall—**

10 **“(1) provide, to other manufacturers**
11 **of telecommunications equipment and**
12 **customer premises equipment that is**
13 **functionally equivalent to equipment**
14 **manufactured by the Bell operating com-**
15 **pany manufacturing affiliate, opportuni-**
16 **ties to sell such equipment to such Bell**
17 **operating company which are com-**
18 **parable to the opportunities which such**
19 **Company provides to its affiliates; and**

20 **“(2) not subsidize its manufacturing**
21 **affiliate with revenues from telephone ex-**
22 **change service or telephone toll service.**

23 **“(f) COLLABORATION PERMITTED.—Nothing**
24 **in this section (other than subsection (m))**
25 **shall be construed to limit or restrict the abil-**

1 **ity of a Bell operating company and its affili-**
2 **ates to engage in close collaboration with any**
3 **manufacturer of customer premises equip-**
4 **ment or telecommunications equipment dur-**
5 **ing the design and development of hardware,**
6 **software, or combinations thereof related to**
7 **such equipment.**

8 **“(g) ACCESSIBILITY REQUIREMENTS.—**

9 **“(1) MANUFACTURING.—The Commis-**
10 **sion shall, within 1 year after the date of**
11 **enactment of this section, prescribe such**
12 **regulations as are necessary to ensure**
13 **that telecommunications equipment and**
14 **customer premises equipment designed,**
15 **developed, and fabricated pursuant to**
16 **the authority granted in this section shall**
17 **be accessible and usable by individuals**
18 **with disabilities, including individuals**
19 **with functional limitations of hearing, vi-**
20 **sion, movement, manipulation, speech,**
21 **and interpretation of information, unless**
22 **the costs of making the equipment acces-**
23 **sible and usable would result in an undue**
24 **burden or an adverse competitive impact.**

1 **“(2) NETWORK SERVICES.—The Commis-**
2 **sion shall, within 1 year after the date of**
3 **enactment of this section, prescribe such**
4 **regulations as are necessary to ensure**
5 **that advances in network services de-**
6 **ployed by a Bell operating company shall**
7 **be accessible and usable by individuals**
8 **whose access might otherwise be im-**
9 **peded by a disability or functional limita-**
10 **tion, unless the costs of making the serv-**
11 **ices accessible and usable would result in**
12 **an undue burden or adverse competitive**
13 **impact. Such regulations shall seek to**
14 **permit the use of both standard and spe-**
15 **cial equipment and seek to minimize the**
16 **need of individuals to acquire additional**
17 **devices beyond those used by the general**
18 **public to obtain such access.**

19 **“(3) COMPATIBILITY.—The regulations**
20 **prescribed under paragraphs (1) and (2)**
21 **shall require that whenever an undue**
22 **burden or adverse competitive impact**
23 **would result from the manufacturing or**
24 **network services requirements in such**
25 **paragraphs, the manufacturing affiliate**

1 **that designs, develops, or fabricates the**
2 **equipment or the Bell operating company**
3 **that deploys the network service shall en-**
4 **sure that the equipment or network serv-**
5 **ice in question is compatible with exist-**
6 **ing peripheral devices or specialized cus-**
7 **tomers' premises equipment commonly**
8 **used by persons with disabilities to**
9 **achieve access, unless doing so would re-**
10 **sult in an undue burden or adverse com-**
11 **petitive impact.**

12 **“(4) DEFINITIONS.—As used in this sub-**
13 **section:**

14 **“(A) UNDUE BURDEN.—The term**
15 **‘undue burden’ means significant dif-**
16 **ficulty or expense. In determining**
17 **whether an activity would result in**
18 **an undue burden, factors to be con-**
19 **sidered include—**

20 **“(i) the nature and cost of the**
21 **activity;**

22 **“(ii) the impact on the oper-**
23 **ation of the facility involved in**
24 **the manufacturing of the equip-**

1 **ment or deployment of the net-**
2 **work service;**

3 **“(iii) the financial resources**
4 **of the manufacturing affiliate in**
5 **the case of manufacturing of**
6 **equipment, for as long as applica-**
7 **ble regulatory rules prohibit**
8 **cross-subsidization of equipment**
9 **manufacturing with revenues**
10 **from regulated telecommuni-**
11 **cations service or when the man-**
12 **ufacturing activities are con-**
13 **ducted in a separate subsidiary;**

14 **“(iv) the financial resources of**
15 **the Bell operating company in the**
16 **case of network services, or in the**
17 **case of manufacturing of equip-**
18 **ment if applicable regulatory**
19 **rules permit cross-subsidization**
20 **of equipment manufacturing with**
21 **revenues from regulated tele-**
22 **communications services and the**
23 **manufacturing activities are not**
24 **conducted in a separate subsidi-**
25 **ary; and**

1 **“(v) the type of operation or**
2 **operations of the manufacturing**
3 **affiliate or Bell operating com-**
4 **pany as applicable.**

5 **“(B) ADVERSE COMPETITIVE IM-**
6 **PACT.—In determining whether the**
7 **activity would result in an adverse**
8 **competitive impact, the following fac-**
9 **tors will be considered:**

10 **“(i) whether such activity**
11 **would raise the cost of the equip-**
12 **ment or network service in ques-**
13 **tion beyond the level at which**
14 **there would be sufficient**
15 **consumer demand by the general**
16 **population to make the equip-**
17 **ment or network service profit-**
18 **able; and**

19 **“(ii) whether such activity**
20 **would, with respect to the equip-**
21 **ment or network service in ques-**
22 **tion, put the manufacturing affili-**
23 **ate or Bell operating company, as**
24 **applicable, at a competitive dis-**
25 **advantage in comparison with**

1 **one or more providers of one or**
2 **more competing products and**
3 **services. This factor may only be**
4 **considered so long as competing**
5 **manufacturers and network serv-**
6 **ice providers are not held to the**
7 **same obligation with respect to**
8 **access by persons with disabil-**
9 **ities.**

10 **“(C) ACTIVITY.—For the purposes**
11 **of this paragraph, the term ‘activity’**
12 **includes—**

13 **“(i) the research, design, de-**
14 **velopment, deployment, and fab-**
15 **rication activities necessary to**
16 **comply with the requirements of**
17 **this section; and**

18 **“(ii) the acquisition of the re-**
19 **lated materials and equipment**
20 **components.**

21 **“(5) EFFECTIVE DATE.—The regulations**
22 **required by this subsection shall become**
23 **effective 18 months after the date of en-**
24 **actment of this section.**

1 **“(6) IMPACT OF ADA.—Nothing in this**
2 **section shall be interpreted to limit or**
3 **otherwise affect the application of the**
4 **Americans with Disabilities Act or its im-**
5 **plementing regulations.**

6 **“(h) PUBLIC NETWORK ENHANCEMENT.—A**
7 **Bell operating company manufacturing affili-**
8 **ate shall, as a part of its overall research and**
9 **development effort, establish a permanent**
10 **program for the manufacturing research and**
11 **development of products and applications for**
12 **the enhancement of the public switched tele-**
13 **phone network and to promote public access**
14 **to advanced telecommunications services.**
15 **Such program shall focus its work substan-**
16 **tially on developing technological advance-**
17 **ments in public telephone network applica-**
18 **tions, telecommunication equipment and**
19 **products, and access solutions to new services**
20 **and technology, including access by (1) public**
21 **institutions, including educational and health**
22 **care institutions; and (2) people with disabil-**
23 **ities and functional limitations. Notwith-**
24 **standing the limitations in subsection (a), a**
25 **Bell operating company and its affiliates may**

1 **engage in such a program in conjunction with**
2 **a Bell operating company not so affiliated or**
3 **any of its affiliates. The existence or establish-**
4 **ment of such a program that is jointly pro-**
5 **vided by manufacturing affiliates of Bell oper-**
6 **ating companies shall satisfy the require-**
7 **ments of this section as it pertains to all such**
8 **affiliates of a Bell operating company.**

9 **“(i) ADDITIONAL RULES AUTHORIZED.—The**
10 **Commission may prescribe such additional**
11 **rules and regulations as the Commission de-**
12 **termines necessary to carry out the provi-**
13 **sions of this section.**

14 **“(j) ADMINISTRATION AND ENFORCEMENT AU-**
15 **THORITY.—**

16 **“(1) COMMISSION REGULATORY AUTHOR-**
17 **ITY.—For the purposes of administering**
18 **and enforcing the provisions of this sec-**
19 **tion and the regulations prescribed**
20 **thereunder, the Commission shall have**
21 **the same authority, power, and functions**
22 **with respect to any Bell operating com-**
23 **pany as the Commission has in admin-**
24 **istering and enforcing the provisions of**

1 **this title with respect to any common car-**
2 **rier subject to this Act.**

3 **“(2) PRIVATE ACTIONS.—Any common**
4 **carrier that provides telephone exchange**
5 **service and that is injured by an act or**
6 **omission of a Bell operating company or**
7 **its manufacturing affiliate which violates**
8 **the requirements of paragraph (7) or (8)**
9 **of subsection (c), or the Commission’s**
10 **regulations implementing such para-**
11 **graphs, may initiate an action in a dis-**
12 **trict court of the United States to recover**
13 **the full amount of damages sustained in**
14 **consequence of any such violation and**
15 **obtain such orders from the court as are**
16 **necessary to terminate existing violations**
17 **and to prevent future violations; or such**
18 **regulated local telephone exchange car-**
19 **rier may seek relief from the Commission**
20 **pursuant to sections 206 through 209.**

21 **“(k) RULEMAKING REQUIRED.—The Commis-**
22 **sion shall prescribe regulations to implement**
23 **this section within 180 days after the date of**
24 **enactment of this section.**

1 **“(l) EXISTING MANUFACTURING AUTHOR-**
2 **ITY.—Nothing in this section shall prohibit**
3 **any Bell operating company from engaging,**
4 **directly or through any affiliate, in any manu-**
5 **facturing activity in which any Bell operating**
6 **company or affiliate was authorized to engage**
7 **on the date of enactment of this section.**

8 **“(m) ANTITRUST LAWS.—Nothing in this**
9 **section shall be construed to modify, impair,**
10 **or supersede the applicability of any of the**
11 **antitrust laws (including title I of the Anti-**
12 **trust and Communications Reform Act of**
13 **1994).**

14 **“(n) DEFINITIONS.—As used in this section:**

15 **“(1) The term ‘affiliate’ means any or-**
16 **ganization or entity that, directly or indi-**
17 **rectly, owns or controls, is owned or con-**
18 **trolled by, or is under common owner-**
19 **ship with a Bell operating company. The**
20 **terms ‘owns’, ‘owned’, and ‘ownership’**
21 **mean an equity interest of more than 10**
22 **percent.**

23 **“(2) The term ‘Bell operating com-**
24 **pany’ means those companies listed in**
25 **appendix A of the Modification of Final**

1 **Judgment, and includes any successor or**
2 **assign of any such company, but does not**
3 **include any affiliate of any such com-**
4 **pany.**

5 **“(3) The term ‘customer premises**
6 **equipment’ means equipment employed**
7 **on the premises of a person (other than a**
8 **carrier) to originate, route, or terminate**
9 **telecommunications.**

10 **“(4) The term ‘manufacturing’ has the**
11 **same meaning as such term has under**
12 **the Modification of Final Judgment.**

13 **“(5) The term ‘manufacturing affiliate’**
14 **means an affiliate of a Bell operating**
15 **company established in accordance with**
16 **subsection (b) of this section.**

17 **“(6) The term ‘Modification of Final**
18 **Judgment’ means the decree entered Au-**
19 **gust 24, 1982, in United States v. Western**
20 **Electric Civil Action No. 82-0192 (United**
21 **States District Court, District of Colum-**
22 **bia), and includes any judgment or order**
23 **with respect to such action entered on or**
24 **after August 24, 1982, and before the date**
25 **of enactment of this section.**

1 **“(7) The term ‘telecommunications’**
2 **means the transmission, between or**
3 **among points specified by the user, of in-**
4 **formation of the user’s choosing, without**
5 **change in the form or content of the in-**
6 **formation as sent and received, by means**
7 **of an electromagnetic transmission me-**
8 **dium, including all instrumentalities, fa-**
9 **ilities, apparatus, and services (includ-**
10 **ing the collection, storage, forwarding,**
11 **switching, and delivery of such informa-**
12 **tion) essential to such transmission.**

13 **“(8) The term ‘telecommunications**
14 **equipment’ means equipment, other than**
15 **customer premises equipment, used by a**
16 **carrier to provide telecommunications**
17 **services, and includes software integral**
18 **to such equipment (including upgrades).**

19 **“(9) The term ‘telecommunications**
20 **service’ means the offering for hire of**
21 **telecommunications facilities, or of tele-**
22 **communications by means of such facili-**
23 **ties.”.**

1 **SEC. 202. REGULATION OF ENTRY INTO ALARM MONITOR-**
2 **ING SERVICES.**

3 **Title II of the Communications Act is**
4 **amended by adding at the end the following**
5 **new section:**

6 **“SEC. 230. REGULATION OF ENTRY INTO ALARM MONITOR-**
7 **ING SERVICES.**

8 **“(a) REGULATIONS REQUIRED.—Not later**
9 **than 6 years after the date of enactment of**
10 **this section, the Commission shall prescribe**
11 **regulations—**

12 **“(1) to establish such requirements,**
13 **limitations, or conditions as are (A) nec-**
14 **essary and appropriate in the public in-**
15 **terest with respect to the provision of**
16 **alarm monitoring services by Bell operat-**
17 **ing companies and their affiliates, and**
18 **(B) effective at such time as a Bell operat-**
19 **ing company or any of its affiliates is au-**
20 **thorized to provide alarm monitoring**
21 **services;**

22 **“(2) to prohibit Bell operating compa-**
23 **nies and their affiliates, at that or any**
24 **earlier time after the date of enactment**
25 **of this section, from recording or using in**
26 **any fashion the occurrence or the con-**

1 **tents of calls received by providers of**
2 **alarm monitoring services for the pur-**
3 **poses of marketing such services on be-**
4 **half of the Bell operating company, any**
5 **of its affiliates, or any other entity; and**

6 **“(3) to establish procedures for the**
7 **receipt and review of complaints con-**
8 **cerning violations by such companies of**
9 **such regulations, or of any other provi-**
10 **sion of this Act or the regulations there-**
11 **under, that result in material financial**
12 **harm to a provider of alarm monitoring**
13 **services.**

14 **“(b) EXPEDITED CONSIDERATION OF COM-**
15 **PLAINTS.—The procedures established under**
16 **subsection (a)(3) shall ensure that the Com-**
17 **mission will make a final determination with**
18 **respect to any complaint described in such**
19 **subsection within 120 days after receipt of the**
20 **complaint. If the complaint contains an ap-**
21 **propriate showing that the alleged violation**
22 **occurred, as determined by the Commission**
23 **in accordance with such regulations, the**
24 **Commission shall, within 60 days after receipt**
25 **of the complaint, issue a cease and desist**

1 **order to prevent the Bell operating company**
2 **and its affiliates from continuing to engage in**
3 **such violation pending such final determina-**
4 **tion.**

5 **“(c) REMEDIES.—The Commission may use**
6 **any remedy available under title V of this Act**
7 **to terminate and punish violations described**
8 **in subsection (a)(2). Such remedies may in-**
9 **clude, if the Commission determines that such**
10 **violation was willful or repeated, ordering the**
11 **Bell operating company to cease offering**
12 **alarm monitoring services.**

13 **“(d) DEFINITIONS.—As used in this section,**
14 **the terms ‘Bell operating company’, ‘affiliate’,**
15 **and ‘alarm monitoring services’ have the**
16 **meanings provided in section 106 of the Anti-**
17 **trust Reform Act of 1994, except that, for pur-**
18 **poses of the term ‘affiliate’, to own shall refer**
19 **to owning an equity interest of more than 10**
20 **percent.”.**

21 **SEC. 203. REGULATION OF ELECTRONIC PUBLISHING.**

22 **Title II of the Communications Act of 1934**
23 **(47 U.S.C. 201 et seq.) is amended by adding**
24 **at the end thereof the following new section:**

1 **“SEC. 231. REGULATION OF ELECTRONIC PUBLISHING.**

2 **“(a) IN GENERAL.—(1) A Bell operating**
3 **company and any affiliate shall not engage in**
4 **the provision of electronic publishing that is**
5 **disseminated by means of such Bell operating**
6 **company’s or any of its affiliates’ basic tele-**
7 **phone service.**

8 **“(2) Nothing in this section shall prohibit**
9 **a separated affiliate or electronic publishing**
10 **joint venture from engaging in the provision**
11 **of electronic publishing or any other lawful**
12 **service in any area.**

13 **“(3) Nothing in this section shall prohibit**
14 **a Bell operating company or affiliate from en-**
15 **gaging in the provision of any lawful service**
16 **other than electronic publishing in any area**
17 **or from engaging in the provision of elec-**
18 **tronic publishing that is not disseminated by**
19 **means of such Bell operating company’s or**
20 **any of its affiliates’ basic telephone service.**

21 **“(b) SEPARATED AFFILIATE OR ELECTRONIC**
22 **PUBLISHING JOINT VENTURE REQUIREMENTS.—A**
23 **separated affiliate or electronic publishing**
24 **joint venture shall—**

25 **“(1) maintain books, records, and ac-**
26 **counts that are separate from those of**

1 **the Bell operating company and from any**
2 **affiliate and which record in accordance**
3 **with generally accepted accounting prin-**
4 **ciples all transactions, whether direct or**
5 **indirect, with the Bell operating com-**
6 **pany;**

7 **“(2) not incur debt in a manner that**
8 **would permit a creditor upon default to**
9 **have recourse to the assets of the Bell op-**
10 **erating company;**

11 **“(3) prepare financial statements that**
12 **are not consolidated with those of the**
13 **Bell operating company or an affiliate,**
14 **provided that consolidated statements**
15 **may also be prepared;**

16 **“(4) file with the Commission annual**
17 **reports in a form substantially equivalent**
18 **to the Form 10-K referenced at 17 C.F.R.**
19 **249.310 as that section and form are in ef-**
20 **fect on the date of enactment;**

21 **“(5) after 1 year from the effective**
22 **date of this section, not hire as corporate**
23 **officers sales and marketing management**
24 **personnel whose responsibilities at the**
25 **separated affiliate or electronic publish-**

1 **ing joint venture will include the geo-**
2 **graphic area where the Bell operating**
3 **company provides basic telephone serv-**
4 **ice, or network operations personnel**
5 **whose responsibilities at the separated**
6 **affiliate or electronic publishing joint**
7 **venture would require dealing directly**
8 **with the Bell operating company, any**
9 **person who was employed by the Bell op-**
10 **erating company during the year preced-**
11 **ing their date of hire, provided that this**
12 **requirement shall not apply to persons**
13 **subject to a collective bargaining agree-**
14 **ment that gives such persons rights to be**
15 **employed by a separated affiliate or elec-**
16 **tronic publishing joint venture of the Bell**
17 **operating company;**

18 **“(6) not provide any wireline tele-**
19 **phone exchange service in any telephone**
20 **exchange area where a Bell operating**
21 **company with which it is under common**
22 **ownership or control provides basic tele-**
23 **phone exchange service except on a re-**
24 **sale basis;**

1 **“(7) not use the name, trademarks, or**
2 **service marks of an existing Bell operat-**
3 **ing company except for names, trade-**
4 **marks, or service marks that are or were**
5 **used in common with the entity that**
6 **owns or controls the Bell operating com-**
7 **pany;**

8 **“(8) have performed annually by**
9 **March 31, or any other date prescribed**
10 **by the Commission, a compliance review**
11 **which—**

12 **“(A) must be conducted by an**
13 **independent entity which is subject**
14 **to professional, legal, and ethical obli-**
15 **gations for the purpose of determin-**
16 **ing compliance during the preceding**
17 **calendar year with any provision of**
18 **this section that imposes a require-**
19 **ment on such separated affiliate or**
20 **electronic publishing joint venture;**
21 **and**

22 **“(B) must be maintained by the**
23 **separated affiliate for a period of 5**
24 **years subject to review by any lawful**
25 **authority;**

1 **“(9) within 90 days of receiving a re-**
2 **view described in paragraph (8), file a re-**
3 **port of such exceptions and any correc-**
4 **tive action with the Commission and**
5 **allow any person to inspect and copy**
6 **such report subject to reasonable safe-**
7 **guards to protect any proprietary infor-**
8 **mation contained in such report from**
9 **being used for purposes other than to en-**
10 **force or pursue remedies under this sec-**
11 **tion.**

12 **“(c) BELL OPERATING COMPANY REQUIRE-**
13 **MENTS.—A Bell operating company under**
14 **common ownership or control with a sepa-**
15 **rated affiliate or electronic publishing joint**
16 **venture shall—**

17 **“(1) not provide a separated affiliate**
18 **any facilities, services, or basic telephone**
19 **service information unless it makes such**
20 **facilities, services, or information avail-**
21 **able to unaffiliated entities upon request**
22 **and on the same terms and conditions;**

23 **“(2) carry out transactions with a sep-**
24 **arated affiliate in a manner equivalent to**
25 **the manner that unrelated parties would**

1 **carry out independent transactions and**
2 **not based upon the affiliation;**

3 **“(3) carry out transactions with a sep-**
4 **arated affiliate, which involve the trans-**
5 **fer of personnel, assets, or anything of**
6 **value, pursuant to written contracts or**
7 **tariffs that are filed with the Commission**
8 **and made publicly available;**

9 **“(4) carry out transactions with a sep-**
10 **arated affiliate in a manner that is**
11 **auditable in accordance with generally**
12 **accepted accounting principles;**

13 **“(5) value any assets that are trans-**
14 **ferred to a separated affiliate at the**
15 **greater of net book cost or fair market**
16 **value;**

17 **“(6) value any assets that are trans-**
18 **ferred to it by its separated affiliate at**
19 **the lesser of net book cost or fair market**
20 **value;**

21 **“(7) except for—**

22 **“(A) instances where Commission**
23 **or State regulations permit in-arrears**
24 **payment for tariffed telecommuni-**
25 **cations services; or**

1 **“(B) the investment by an affiliate**
2 **of dividends or profits derived from a**
3 **Bell operating company,**
4 **not provide debt or equity financing di-**
5 **rectly or indirectly to a separated affili-**
6 **ate;**

7 **“(8) comply fully with all applicable**
8 **Commission and State cost allocation and**
9 **other accounting rules;**

10 **“(9) have performed annually by**
11 **March 31, or any other date prescribed**
12 **by the Commission, a compliance review**
13 **which—**

14 **“(A) must be conducted by an**
15 **independent entity which is subject**
16 **to professional, legal, and ethical obli-**
17 **gations for the purpose of determin-**
18 **ing compliance during the preceding**
19 **calendar year with any provision of**
20 **this section that imposes a require-**
21 **ment on such Bell operating com-**
22 **pany; and**

23 **“(B) must be maintained by the**
24 **Bell operating company for a period**

1 **of 5 years subject to review by any**
2 **lawful authority;**

3 **“(10) within 90 days of receiving a re-**
4 **view described in paragraph (9), file a re-**
5 **port of such exceptions and any correc-**
6 **tive action with the Commission and**
7 **allow any person to inspect and copy**
8 **such report subject to reasonable safe-**
9 **guards to protect any proprietary infor-**
10 **mation contained in such report from**
11 **being used for purposes other than to en-**
12 **force or pursue remedies under this sec-**
13 **tion;**

14 **“(11) if it provides facilities or serv-**
15 **ices for telecommunication, transmission,**
16 **billing and collection, or physical colloca-**
17 **tion to any electronic publisher, includ-**
18 **ing a separated affiliate, for use with or**
19 **in connection with the provision of elec-**
20 **tronic publishing that is disseminated by**
21 **means of such Bell operating company’s**
22 **or any of its affiliates’ basic telephone**
23 **service, provide to all other electronic**
24 **publishers the same type of facilities and**
25 **services on request, on the same terms**

1 **and conditions or as required by the**
2 **Commission or a State, and unbundled**
3 **and individually tariffed to the smallest**
4 **extent that is technically feasible and**
5 **economically reasonable to provide;**

6 **“(12) provide network access and**
7 **interconnections for basic telephone**
8 **service to electronic publishers at any**
9 **technically feasible and economically rea-**
10 **sonable point within the Bell operating**
11 **company’s network and at just and rea-**
12 **sonable rates that are tariffed (so long as**
13 **rates for such services are subject to reg-**
14 **ulation) and that are not higher on a per-**
15 **unit basis than those charged for such**
16 **services to any other electronic publisher**
17 **or any separated affiliate engaged in**
18 **electronic publishing;**

19 **“(13) if prices for network access and**
20 **interconnection for basic telephone serv-**
21 **ice are no longer subject to regulation,**
22 **provide electronic publishers such serv-**
23 **ices on the same terms and conditions as**
24 **a separated affiliate receives such serv-**
25 **ices;**

1 **“(14) if any basic telephone service**
2 **used by electronic publishers ceases to**
3 **require a tariff, provide electronic pub-**
4 **lishers with such service on the same**
5 **terms and conditions as a separated affil-**
6 **iate receives such service;**

7 **“(15) provide reasonable advance no-**
8 **tification at the same time and on the**
9 **same terms to all affected electronic pub-**
10 **lishers of information if such information**
11 **is within any one or more of the follow-**
12 **ing categories:**

13 **“(A) such information is nec-**
14 **essary for the transmission or routing**
15 **of information by an interconnected**
16 **electronic publisher;**

17 **“(B) such information is nec-**
18 **essary to ensure the interoperability**
19 **of an electronic publisher’s and the**
20 **Bell operating company’s networks;**
21 **or**

22 **“(C) such information concerns**
23 **changes in basic telephone service**
24 **network design and technical stand-**

1 **ards which may affect the provision**
2 **of electronic publishing;**

3 **“(16) not directly or indirectly pro-**
4 **vide anything of monetary value to a sep-**
5 **arated affiliate unless in exchange for**
6 **consideration at least equal to the great-**
7 **er of its net book cost or fair market**
8 **value, except the investment by an affili-**
9 **ate of dividends or profits derived from a**
10 **Bell operating company;**

11 **“(17) not discriminate in the presen-**
12 **tation or provision of any gateway for**
13 **electronic publishing services or any**
14 **electronic directory of information serv-**
15 **ices, which is provided over such Bell op-**
16 **erating company’s basic telephone serv-**
17 **ice;**

18 **“(18) have no directors, officers or**
19 **employees in common with a separated**
20 **affiliate;**

21 **“(19) not own any property in com-**
22 **mon with a separated affiliate;**

23 **“(20) not perform hiring or training of**
24 **personnel performed on behalf of a sepa-**
25 **rated affiliate;**

1 **“(21) not perform the purchasing, in-**
2 **stallation or maintenance of equipment**
3 **on behalf of a separated affiliate, except**
4 **for telephone service that it provides**
5 **under tariff or contract subject to the**
6 **provisions of this section; and**

7 **“(22) not perform research and devel-**
8 **opment on behalf of a separated affiliate.**

9 **“(d) CUSTOMER PROPRIETARY NETWORK IN-**
10 **FORMATION.—A Bell operating company or any**
11 **affiliate shall not provide to any electronic**
12 **publisher, including a separated affiliate or**
13 **electronic publishing joint venture, customer**
14 **proprietary network information for use with**
15 **or in connection with the provision of elec-**
16 **tronic publishing that is disseminated by**
17 **means of such Bell operating company’s or**
18 **any of its affiliates’ basic telephone service**
19 **that is not made available by the Bell operat-**
20 **ing company or affiliate to all electronic pub-**
21 **lishers on the same terms and conditions.**

22 **“(e) COMPLIANCE WITH SAFEGUARDS.—A**
23 **Bell operating company, affiliate or its sepa-**
24 **rated affiliate is prohibited from acting in**
25 **concert with another Bell operating company**

1 or any entity in order to knowingly and will-
2 fully violate or evade the requirements of this
3 section.

4 “(f) TELEPHONE OPERATING COMPANY DIVI-
5 DENDS.—Nothing in this section shall prohibit
6 an affiliate from investing dividends derived
7 from a Bell operating company in its sepa-
8 rated affiliate and subsections (i) and (j) of
9 this section shall not apply to any such invest-
10 ment.

11 “(g) JOINT MARKETING, ETC.—Except as
12 provided in subsection (h)—

13 “(1) a Bell operating company shall
14 not carry out any promotion, marketing,
15 sales, or advertising for or in conjunction
16 with a separated affiliate.

17 “(2) A Bell operating company shall
18 not carry out any promotion, marketing,
19 sales, or advertising for or in conjunction
20 with an affiliate that is related to the pro-
21 vision of electronic publishing.

22 “(h) PERMISSIBLE JOINT ACTIVITIES.—

23 “(1) JOINT TELEMARKETING.—A Bell op-
24 erating company may provide inbound
25 telemarketing or referral services related

1 **to the provision of electronic publishing**
2 **for a separated affiliate, electronic pub-**
3 **lishing joint venture, affiliate, or unaffili-**
4 **ated electronic publisher, provided that**
5 **if such services are provided to a sepa-**
6 **rated affiliate, electronic publishing joint**
7 **venture, or affiliate, such services shall**
8 **be made available to all electronic pub-**
9 **lishers on request, on nondiscriminatory**
10 **terms, at compensatory prices, and sub-**
11 **ject to regulations of the Commission to**
12 **ensure that the Bell operating company's**
13 **method of providing telemarketing or re-**
14 **ferral and its price structure do not com-**
15 **petitively disadvantage any electronic**
16 **publishers regardless of size, including**
17 **those which do not use the Bell operating**
18 **company's telemarketing services.**

19 **“(2) TEAMING ARRANGEMENTS.—A Bell**
20 **operating company may engage in non-**
21 **discriminatory teaming or business ar-**
22 **rangements to engage in electronic pub-**
23 **lishing with any separated affiliate or**
24 **with any other electronic publisher pro-**
25 **vided that the Bell operating company**

1 **only provides facilities, services, and**
2 **basic telephone service information as**
3 **authorized by this section and provided**
4 **that the Bell operating company does not**
5 **own such teaming or business arrange-**
6 **ment.**

7 **“(3) ELECTRONIC PUBLISHING JOINT VEN-**
8 **TURES.—A Bell operating company or af-**
9 **filiate may participate on a nonexclusive**
10 **basis in electronic publishing joint ven-**
11 **tures with entities that are not any Bell**
12 **operating company, affiliate, or sepa-**
13 **rated affiliate to provide electronic pub-**
14 **lishing services, provided that the Bell**
15 **operating company or affiliate has not**
16 **more than a 50 percent direct or indirect**
17 **equity interest (or the equivalent thereof)**
18 **or the right to more than 50 percent of**
19 **the gross revenues under a revenue shar-**
20 **ing or royalty agreement in any elec-**
21 **tronic publishing joint venture. Officers**
22 **and employees of a Bell operating com-**
23 **pany or affiliate participating in an elec-**
24 **tronic publishing joint venture may not**
25 **have more than 50 percent of the voting**

1 **control over the electronic publishing**
2 **joint venture. In the case of joint ven-**
3 **tures with small, local electronic publish-**
4 **ers, the Commission for good cause**
5 **shown may authorize the Bell operating**
6 **company or affiliate to have a larger eq-**
7 **uity interest, revenue share, or voting**
8 **control but not to exceed 80 percent. A**
9 **Bell operating company participating in**
10 **an electronic publishing joint venture**
11 **may provide promotion, marketing, sales,**
12 **or advertising personnel and services to**
13 **such joint venture.**

14 **“(i) TRANSACTIONS RELATED TO THE PROVI-**
15 **SION OF ELECTRONIC PUBLISHING BETWEEN A**
16 **TELEPHONE OPERATING COMPANY AND ANY AF-**
17 **FILIATE.—**

18 **“(1) Any provision of facilities, serv-**
19 **ices or basic telephone service informa-**
20 **tion or any transfer of assets, personnel,**
21 **or anything of commercial or competitive**
22 **value from a Bell operating company to**
23 **any affiliate related to the provision of**
24 **electronic publishing shall be—**

1 **“(A) recorded in the books and**
2 **records of each entity;**

3 **“(B) auditable in accordance with**
4 **generally accepted accounting prin-**
5 **ciples; and**

6 **“(C) pursuant to written contracts**
7 **or tariffs filed with the Commission**
8 **or a State and made publicly avail-**
9 **able.**

10 **“(2) Any transfer of assets directly re-**
11 **lated to the provision of electronic pub-**
12 **lishing from a Bell operating company to**
13 **an affiliate shall be valued at the greater**
14 **of net book cost or fair market value. Any**
15 **transfer of assets related to the provision**
16 **of electronic publishing from an affiliate**
17 **to the Bell operating company shall be**
18 **valued at the lesser of net book cost or**
19 **fair market value.**

20 **“(3) A Bell operating company shall**
21 **not provide an affiliate any facilities,**
22 **services, or basic telephone service infor-**
23 **mation related to the provision of elec-**
24 **tronic publishing, which such affiliate**
25 **then directly or indirectly provides to a**

1 **separated affiliate, and which is not**
2 **made available to unaffiliated companies**
3 **on the same terms and conditions.**

4 **“(j) TRANSACTIONS RELATED TO THE PROVI-**
5 **SION OF ELECTRONIC PUBLISHING BETWEEN AN**
6 **AFFILIATE AND A SEPARATED AFFILIATE.—**

7 **“(1) Any facilities, services, or basic**
8 **telephone service information provided**
9 **or any assets, personnel, or anything of**
10 **commercial or competitive value trans-**
11 **ferred, from a Bell operating company to**
12 **any affiliate as described in subsection (i)**
13 **and then provided or transferred to a**
14 **separated affiliate shall be—**

15 **“(A) recorded in the books and**
16 **records of each entity;**

17 **“(B) auditable in accordance with**
18 **generally accepted accounting prin-**
19 **ciples; and**

20 **“(C) pursuant to written contracts**
21 **or tariffs filed with the Commission**
22 **or a State and made publicly avail-**
23 **able.**

24 **“(2) Any transfer of assets directly re-**
25 **lated to the provision of electronic pub-**

1 **lishing from a Bell operating company to**
2 **any affiliate as described in subsection (i)**
3 **and then transferred to a separated affili-**
4 **ate shall be valued at the greater of net**
5 **book cost or fair market value. Any trans-**
6 **fer of assets related to the provision of**
7 **electronic publishing from a separated**
8 **affiliate to any affiliate and then trans-**
9 **ferred to the Bell operating company as**
10 **described in subsection (i) shall be val-**
11 **ued at the lesser of net book cost or fair**
12 **market value.**

13 **“(3) An affiliate shall not provide a**
14 **separated affiliate any facilities, services,**
15 **or basic telephone service information re-**
16 **lated to the provision of electronic pub-**
17 **lishing, which were provided to such af-**
18 **affiliate directly or indirectly by a Bell op-**
19 **erating company, and which is not made**
20 **available to unaffiliated companies on**
21 **the same terms and conditions.**

22 **“(k) OTHER ELECTRONIC PUBLISHERS.—Ex-**
23 **cept as provided in subsection (h)(3)—**

24 **“(1) A Bell operating company shall**
25 **not have any officers, employees, prop-**

1 **erty, or facilities in common with any en-**
2 **tity whose principal business is publish-**
3 **ing of which a part is electronic publish-**
4 **ing.**

5 **“(2) No officer or employee of a Bell**
6 **operating company shall serve as a direc-**
7 **tor of any entity whose principal busi-**
8 **ness is publishing of which a part is elec-**
9 **tronic publishing.**

10 **“(3) For the purposes of paragraphs**
11 **(1) and (2), a Bell operating company or**
12 **an affiliate that owns an electronic pub-**
13 **lishing joint venture shall not be deemed**
14 **to be engaged in the electronic publish-**
15 **ing business solely because of such own-**
16 **ership.**

17 **“(4) A Bell operating company shall**
18 **not carry out—**

19 **“(A) any marketing or sales for**
20 **any entity that engages in electronic**
21 **publishing; or**

22 **“(B) any hiring of personnel, pur-**
23 **chasing, or production,**
24 **for any entity that engages in electronic**
25 **publishing.**

1 **“(5) The Bell operating company shall**
2 **not provide any facilities, services, or**
3 **basic telephone service information to**
4 **any entity that engages in electronic pub-**
5 **lishing, for use with or in connection**
6 **with the provision of electronic publish-**
7 **ing that is disseminated by means of such**
8 **Bell operating company’s or any of its af-**
9 **filiate’s basic telephone service, unless**
10 **equivalent facilities, services, or informa-**
11 **tion are made available on equivalent**
12 **terms and conditions to all.**

13 **“(l) TRANSITION.—Any electronic publish-**
14 **ing service being offered to the public by a**
15 **Bell operating company or affiliate on the**
16 **date of enactment of this section shall have**
17 **one year from such date of enactment to com-**
18 **ply with the requirements of this section.**

19 **“(m) SUNSET.—The provisions of this sec-**
20 **tion shall cease to apply to a Bell operating**
21 **company or its affiliate or separated affiliate**
22 **in any telephone exchange area on June 30,**
23 **2000.**

24 **“(n) PRIVATE RIGHT OF ACTION.—**

1 **“(1) Any person claiming that any act**
2 **or practice of any Bell operating com-**
3 **pany, affiliate, or separated affiliate con-**
4 **stitutes a violation of this section may**
5 **file a complaint with the Commission or**
6 **bring suit as provided in section 207 of**
7 **the Communications Act of 1934 (47**
8 **U.S.C. 207), and such Bell operating com-**
9 **pany, affiliate, or separated affiliate shall**
10 **be liable as provided in section 206 of the**
11 **Communications Act of 1934, (47 U.S.C.**
12 **207): *Provided, however,* That damages**
13 **may not be awarded for a violation that**
14 **is discovered by a compliance review as**
15 **required by subsection (b)(8) or (c)(9) of**
16 **this section and corrected within 90 days.**

17 **“(2) In addition to the provisions of**
18 **paragraph (1), any person claiming that**
19 **any act or practice of any Bell operating**
20 **company, affiliate, or separated affiliate**
21 **constitutes a violation of this section may**
22 **make application to the Commission for**
23 **an order to cease and desist such viola-**
24 **tion or may make application in any dis-**
25 **trict court of the United States of com-**

1 **petent jurisdiction for an order enjoining**
2 **such acts or practices or for an order**
3 **compelling compliance with such re-**
4 **quirement.**

5 **“(o) ANTITRUST LAWS.—Nothing in this sec-**
6 **tion shall be construed to modify, impair, or**
7 **supersede the applicability of any of the anti-**
8 **trust laws (including title I of the Antitrust**
9 **and Communications Reform Act of 1994).**

10 **“(p) DEFINITIONS.—As used in this sec-**
11 **tion—**

12 **“(1) The term ‘affiliate’ means any en-**
13 **tity that, directly or indirectly, owns or**
14 **controls, is owned or controlled by, or is**
15 **under common ownership or control**
16 **with, a Bell operating company. Such**
17 **term shall not include a separated affili-**
18 **ate.**

19 **“(2) The term ‘basic telephone service’**
20 **means any wireline telephone exchange**
21 **service, or a wireline telephone exchange**
22 **service facility, provided by a Bell operat-**
23 **ing company in a telephone exchange**
24 **area, except**

1 **“(A) a competitive wireline tele-**
2 **phone exchange service provided in a**
3 **telephone exchange area where an-**
4 **other entity provides a wireline tele-**
5 **phone exchange service that was pro-**
6 **vided on January 1, 1984, and**

7 **“(B) wireless telephone exchange**
8 **service provided by an affiliate that**
9 **is required by the Commission to be a**
10 **corporate entity separate from the**
11 **Bell operating company.**

12 **“(3) The term ‘basic telephone service**
13 **information’ means network and cus-**
14 **tomers information of a Bell operating**
15 **company and other information acquired**
16 **by a Bell operating company as a result**
17 **of its engaging in the provision of basic**
18 **telephone service.**

19 **“(4) The term ‘control’ has the mean-**
20 **ing that it has in 17 C.F.R. 240.12b-2, the**
21 **regulations promulgated by the Securi-**
22 **ties and Exchange Commission pursuant**
23 **to the Securities Exchange Act of 1934 (15**
24 **U.S.C. 78a et seq.) or any successor provi-**
25 **sion to such section.**

1 **“(5) The term ‘customer proprietary**
2 **network information’ means—**

3 **“(A) information which—**

4 **“(i) relates to the quantity,**
5 **technical configuration, type, des-**
6 **tination, and amount of use of**
7 **telephone exchange service or**
8 **interexchange telephone service**
9 **subscribed to by any customer of**
10 **a Bell operating company, and**

11 **“(ii) is available to the Bell op-**
12 **erating company by virtue of the**
13 **telephone company-customer re-**
14 **lationship; and**

15 **“(B) information contained in the**
16 **bills for telephone exchange service**
17 **or interexchange telephone service**
18 **received by a customer of a Bell oper-**
19 **ating company.**

20 **“(6)(A) The term ‘electronic publish-**
21 **ing’ means the dissemination, provision,**
22 **publication, or sale to an unaffiliated en-**
23 **tity or person, using a Bell operating**
24 **company’s basic telephone service, of—**

25 **“(i) news or entertainment;**

- 1 **“(ii) business, financial, legal,**
2 **consumer, or credit material;**
- 3 **“(iii) editorials;**
- 4 **“(iv) columns;**
- 5 **“(v) sports reporting;**
- 6 **“(vi) features;**
- 7 **“(vii) advertising;**
- 8 **“(viii) photos or images;**
- 9 **“(ix) archival or research mate-**
10 **rial;**
- 11 **“(x) legal notices or public**
12 **records;**
- 13 **“(xi) scientific, educational, in-**
14 **structional, technical, professional,**
15 **trade, or other literary materials; or**
- 16 **“(xii) other like or similar infor-**
17 **mation.**
- 18 **“(B) The term ‘electronic publishing’**
19 **shall not include the following network**
20 **services:**
- 21 **“(i) Information access as that**
22 **term is defined by the Modification of**
23 **Final Judgment.**
- 24 **“(ii) The transmission of informa-**
25 **tion as a common carrier.**

1 **“(iii) The transmission of informa-**
2 **tion as part of a gateway to an infor-**
3 **mation service that does not involve**
4 **the generation or alteration of the**
5 **content of information, including**
6 **data transmission, address trans-**
7 **lation, protocol conversion, billing**
8 **management, introductory informa-**
9 **tion content, and navigational sys-**
10 **tems that enable users to access elec-**
11 **tronic publishing services, which do**
12 **not affect the presentation of such**
13 **electronic publishing services to**
14 **users.**

15 **“(iv) Voice storage and retrieval**
16 **services, including voice messaging**
17 **and electronic mail services.**

18 **“(v) Level 2 gateway services as**
19 **those services are defined by the**
20 **Commission’s Second Report and**
21 **Order, Recommendation to Congress**
22 **and Second Further Notice of Pro-**
23 **posed Rulemaking in CC Docket No.**
24 **87-266 dated August 14, 1992.**

1 **“(vi) Data processing services that**
2 **do not involve the generation or al-**
3 **teration of the content of informa-**
4 **tion.**

5 **“(vii) Transaction processing sys-**
6 **tems that do not involve the genera-**
7 **tion or alteration of the content of in-**
8 **formation.**

9 **“(viii) Electronic billing or adver-**
10 **tising of a Bell operating company’s**
11 **regulated telecommunications serv-**
12 **ices.**

13 **“(ix) Language translation.**

14 **“(x) Conversion of data from one**
15 **format to another.**

16 **“(xi) The provision of information**
17 **necessary for the management, con-**
18 **trol, or operation of a telephone com-**
19 **pany telecommunications system.**

20 **“(xii) The provision of directory**
21 **assistance that provides names, ad-**
22 **resses, and telephone numbers and**
23 **does not include advertising.**

24 **“(xiii) Caller identification serv-**
25 **ices.**

1 **“(xiv) Repair and provisioning**
2 **databases for telephone company op-**
3 **erations.**

4 **“(xv) Credit card and billing vali-**
5 **dation for telephone company oper-**
6 **ations.**

7 **“(xvi) 911-E and other emergency**
8 **assistance databases.**

9 **“(xvii) Any other network service**
10 **of a type that is like or similar to**
11 **these network services and that does**
12 **not involve the generation or alter-**
13 **ation of the content of information.**

14 **“(xviii) Any upgrades to these net-**
15 **work services that do not involve the**
16 **generation or alteration of the con-**
17 **tent of information.**

18 **“(C) The term ‘electronic publishing’**
19 **also shall not include—**

20 **“(i) full motion video entertain-**
21 **ment on demand; and**

22 **“(ii) video programming as de-**
23 **efined in section 602 of the Commu-**
24 **nications Act of 1934.**

1 **“(7) The term ‘electronic publishing**
2 **joint venture’ means a joint venture**
3 **owned by a Bell operating company or af-**
4 **filiate that engages in the provision of**
5 **electronic publishing which is dissemi-**
6 **nated by means of such Bell operating**
7 **company’s or any of its affiliates’ basic**
8 **telephone service.**

9 **“(8) The term ‘entity’ means any orga-**
10 **nization, and includes corporations, part-**
11 **nerships, sole proprietorships, associa-**
12 **tions, and joint ventures.**

13 **“(9) The term ‘inbound telemarketing’**
14 **means the marketing of property, goods,**
15 **or services by telephone to a customer or**
16 **potential customer who initiated the call.**

17 **“(10) The term ‘own’ with respect to**
18 **an entity means to have a direct or indi-**
19 **rect equity interest (or the equivalent**
20 **thereof) of more than 10 percent of an en-**
21 **tity, or the right to more than 10 percent**
22 **of the gross revenues of an entity under**
23 **a revenue sharing or royalty agreement.**

24 **“(11) The term ‘separated affiliate’**
25 **means a corporation under common own-**

1 **ership or control with a Bell operating**
2 **company that does not own or control a**
3 **Bell operating company and is not owned**
4 **or controlled by a Bell operating com-**
5 **pany and that engages in the provision of**
6 **electronic publishing which is dissemi-**
7 **nated by means of such Bell operating**
8 **company's or any of its affiliates' basic**
9 **telephone service.**

10 **“(12) The term ‘Bell operating com-**
11 **pany’ means the corporations subject to**
12 **the Modification of Final Judgment and**
13 **listed in Appendix A thereof, or any en-**
14 **tity owned or controlled by such corpora-**
15 **tion, or any successor or assign of such**
16 **corporation, but does not include an elec-**
17 **tronic publishing joint venture owned by**
18 **such corporation or entity.”.**

Amend the title of the bill so as to read: “A bill to supersede the Modification of Final Judgment entered August 24, 1982, in the antitrust action styled United States v. Western Electric, Civil Action No. 82-0192, United States District Court for the District of Columbia; to amend the Communications Act of 1934 to regulate the manufacturing of Bell operating companies; and for other purposes.”.



HR 3626 RH—2

HR 3626 RH—3

HR 3626 RH—4

HR 3626 RH—5

HR 3626 RH—6

HR 3626 RH—7

HR 3626 RH—8

HR 3626 RH—9

HR 3626 RH—10

HR 3626 RH—11

HR 3626 RH—12