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S. 1822

To foster the further development of the Nation's telecommunications infrastructure and protection of the public interest, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 3 (legislative day, JANUARY 25), 1994

Mr. HOLLINGS (for himself, Mr. DANFORTH, Mr. INOUE, Mr. STEVENS, Mr. EXON, Mr. PRESSLER, Mr. ROCKEFELLER, Mr. BURNS, Mr. ROBB, Mr. GORTON, Mr. DORGAN, Mr. KERREY, and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To foster the further development of the Nation's telecommunications infrastructure and protection of the public interest, 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.**

4 This Act may be cited as the "Communications Act
5 of 1994".

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

1 (1) Congress has not passed a broad review of
2 the Communications Act of 1934 since that Act was
3 originally passed;

4 (2) Congress must pass comprehensive commu-
5 nications legislation to promote the development and
6 growth of the national information superhighway;

7 (3) changes in the telecommunications market-
8 place have made some of the provisions of the Com-
9 munications Act of 1934 obsolete, unnecessary, or
10 inimical to advances in communications technologies
11 and services;

12 (4) for instance, competition has emerged in
13 many services that were previously thought to be
14 natural monopolies, but the Communications Act of
15 1934 requires all carriers to be regulated as if they
16 were monopolies;

17 (5) as communications markets change, govern-
18 ment must ensure that the public interest, conven-
19 ience and necessity is preserved;

20 (6) the public interest requires that universal
21 telephone service is protected and advanced, that
22 new telecommunications technologies are deployed
23 rapidly and equitably, and that access by schools,
24 hospitals, public broadcasters, libraries, other public
25 entities, community newspapers, and broadcasters in

1 the smallest markets to advanced telecommuni-
2 cations services is assisted;

3 (7) access to basic telecommunications services
4 is fundamental to safety of life and participation in
5 a democratic society;

6 (8) telecommunications networks make substan-
7 tial use of public rights of way in real property and
8 in spectrum frequencies, and carriers that make use
9 of such public rights of way have an obligation to
10 provide preferential rates to entities that provide sig-
11 nificant public benefits;

12 (9) advanced telecommunications services can
13 enhance the quality of life and promote economic de-
14 velopment and international competitiveness;

15 (10) telecommunications infrastructure develop-
16 ment is particularly crucial to the continued eco-
17 nomic development of rural areas that may lack an
18 adequate industrial or service base for continued de-
19 velopment;

20 (11) advancements in the Nation's tele-
21 communications infrastructure will enhance the pub-
22 lic welfare by helping to speed the delivery of new
23 services, such as distance learning, remote medical
24 sensing, and distribution of health information;

1 (12) infrastructure advancement can be assisted
2 by joint planning and infrastructure sharing by all
3 carriers providing communications services;

4 (13) increased competition in telecommuni-
5 cations services can, if subject to appropriate safe-
6 guards, encourage infrastructure development and
7 have beneficial effects on the price, universal avail-
8 ability, variety, and quality of telecommunications
9 services;

10 (14) the emergence of competition in tele-
11 communications services has already contributed,
12 and can be expected to continue contributing, to the
13 modernization of the infrastructure;

14 (15) competition in the long distance industry
15 and the communications equipment market has
16 brought about lower prices and higher quality serv-
17 ices;

18 (16) competition for local communications serv-
19 ices has already begun to benefit the public; com-
20 petitive access providers have deployed thousands of
21 miles of optical fiber in their local networks; local ex-
22 change carriers have been prompted by competition
23 to accelerate the installation of optical fiber in their
24 own networks;

1 (17) electric utilities, satellite carriers, and oth-
2 ers are prepared to enter the local telephone market
3 over the next few years;

4 (18) a diversity of telecommunications carriers
5 enhances network reliability by providing redundant
6 capacity, thereby lessening the impact of any net-
7 work failure;

8 (19) competition must proceed under rules that
9 protect consumers and are fair to all telecommuni-
10 cations carriers;

11 (20) all telecommunications carriers, including
12 competitors to the telephone companies, should con-
13 tribute to universal service and should make their
14 networks available for interconnection by others;

15 (21) removal of all State and local barriers to
16 entry into the telecommunications services market
17 and provision of national standards for interconnec-
18 tion are warranted after mechanisms to protect uni-
19 versal service and rules are established to ensure
20 that competition develops fairly;

21 (22) increasing the availability of interconnec-
22 tion and interoperability among the facilities of tele-
23 communications carriers will help stimulate the de-
24 velopment of fair competition among providers;

1 (23) the portability of telecommunications num-
2 bers will eliminate a significant advantage held by
3 traditional telephone companies over competitors in
4 the provision of telecommunications services;

5 (24) restrictions on resale and sharing of tele-
6 communications networks retard the growth of com-
7 petition and restrict the diversity of services avail-
8 able to the public;

9 (25) additional regulatory measures are needed
10 to allow consumers in rural markets and non-
11 competitive markets the opportunity to benefit from
12 high-quality telecommunications capabilities;

13 (26) regulatory flexibility for existing providers
14 of telephone exchange service is necessary to allow
15 them to respond to competition;

16 (27) the Federal Communications Commission
17 (hereinafter referred to as the “Commission”) and
18 the States must have the flexibility to adjust their
19 regulations to the market power of each provider of
20 telecommunications services;

21 (28) the Commission should take steps to en-
22 sure network reliability and the development of net-
23 work standards;

24 (29) access to switched, digital telecommuni-
25 cations service for all segments of the population

1 promotes the core First Amendment goal of diverse
2 information sources by enabling individuals and or-
3 ganizations alike to publish and otherwise make in-
4 formation available in electronic form;

5 (30) the national welfare will be enhanced if
6 community newspapers and broadcasters in the
7 smallest markets are provided ease of entry into the
8 operation of information services disseminated
9 through electronic means primarily to customers in
10 the localities served by such newspapers and broad-
11 casters at reasonable, nondiscriminatory rates to
12 such newspapers;

13 (31) a clear national mandate is needed for full
14 participation in access to telecommunications net-
15 works and services by individuals with disabilities;

16 (32) the obligations of telecommunications car-
17 riers includes the duty to furnish telecommuni-
18 cations services which are designed to be fully acces-
19 sible to individuals with disabilities in accordance
20 with such standards as the Commission may pre-
21 scribe;

22 (33) permitting the Bell operating companies to
23 enter the manufacturing market will stimulate great-
24 er research and development, create more jobs, and
25 enhance our international competitiveness;

1 (34) the Bell operating companies should be
2 permitted to provide long distance service for cable
3 television and for cellular hands off immediately be-
4 cause there is little harm, if any, that such entry
5 could cause the public;

6 (35) the Bell operating companies should not be
7 permitted to enter the market for other long dis-
8 tance services until they have eliminated the barriers
9 to competition and interconnection and until the Bell
10 operating company faces competition for local tele-
11 phone service;

12 (36) safeguards are necessary to ensure that
13 the Bell operating companies do not abuse their
14 market power over local telephone service to dis-
15 criminate against competitors in the markets for
16 electronic publishing, alarm, and other information
17 services;

18 (37) amending the legal barriers to the provi-
19 sion of video programming by telephone companies
20 in their service areas will encourage competition to
21 existing cable television service providers and en-
22 courage telephone companies to upgrade their tele-
23 communications facilities to enable them to deliver
24 video programming, as long as telephone companies

1 are prohibited from buying or combining with exist-
2 ing cable companies in their telephone service areas;

3 (38) as communications technologies and serv-
4 ices proliferate, consumers must be given the right
5 to control information concerning their use of those
6 technologies and services; and

7 (39) as competition in the media increases, the
8 Commission should reexamine the need for national
9 and local ownership limits on broadcast stations,
10 consistent with the need to maintain diversity of in-
11 formation sources.

12 **SEC. 3. EFFECT ON OTHER LAW.**

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

16 (b) 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
21 the extent that such law would impair or prevent the oper-
22 ation of this Act.

1 **TITLE I—PROTECTION AND**
2 **ADVANCEMENT OF UNIVERSAL SERVICE**

3 **SEC. 101. NATIONAL POLICY GOALS.**

4 Section 1 of the Communications Act of 1934 (47
5 U.S.C. 151) is amended by inserting “(a)” immediately
6 before “For the purpose of” and by adding at the end
7 the following new subsection:

8 “(b) the primary objective of United States national
9 and international communications policy shall be to pro-
10 tect the public interest. The goals of United States na-
11 tional and international communications policy shall in-
12 clude the following:

13 “(1) To ensure that every person has access to
14 basic telecommunications at reasonable charges.

15 “(2) To promote the development and wide-
16 spread availability of new technologies.

17 “(3) To ensure that consumes have access to
18 diverse sources of information.

19 “(4) To allow each individual the opportunity to
20 contribute to the free flow of ideas and information
21 through telecommunications services.

22 “(5) To maximize the contribution of commu-
23 nications and information technologies and services
24 to economic welfare and quality of life.

1 “(6) To protect each individual’s right to con-
2 trol the use of information concerning his or her use
3 of telecommunications services.

4 “(7) To promote democracy.”.

5 **SEC. 102. UNIVERSAL SERVICE PROTECTION AND AD-**
6 **VANCEMENT.**

7 (a) IN GENERAL.—Title II of the Communications
8 Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding
9 immediately after section 201 the following new section:
10 **“SEC. 201A. UNIVERSAL SERVICE PROTECTION AND AD-**
11 **VANCEMENT.**

12 “(a) DUTY TO CONTRIBUTE.—It shall be the duty of
13 every common carrier engaged in intrastate, interstate, or
14 foreign communication by wire or radio to contribute to
15 the preservation and advancement of universal service.
16 Such contributions can include monetary payment, certain
17 service obligations, in-kind payment, or other forms of
18 contribution as determined by the Commission and any
19 State as set forth in subsections (b) and (c).

20 “(b) RESPONSIBILITIES OF THE COMMISSION.—(1)
21 Within one year after the date of enactment of this sec-
22 tion, the Commission, after receiving comment from the
23 States, shall set forth minimum guidelines for the defini-
24 tion of universal service. Such guidelines shall ensure
25 that—

1 “(A) universal service includes no less than
2 voice grade telephone exchange services at a charge
3 that includes no more than a reasonable share of the
4 joint and common costs of facilities used to provide
5 such services; and

6 “(B) any other service that utilizes such facili-
7 ties shall bear a reasonable share of such costs.

8 The Commission shall periodically revise such guidelines.

9 “(2) Within two years after the date of enactment
10 of this section, the Commission shall prescribe and imple-
11 ment regulations to provide that a charge be collected, or
12 other action be taken, to ensure that providers of inter-
13 state telecommunications make a contribution to the pro-
14 tection and advancement of universal service on a competi-
15 tively neutral basis. Any funds contributed under this sec-
16 tion shall be distributed to each State.

17 “(c) PRIMARY RESPONSIBILITY.—(1) The Commis-
18 sion shall delegate to each State the primary responsibility
19 for defining universal service and ensuring that universal
20 service goals are met. Each State may impose a non-
21 discriminatory charge on intrastate telecommunications,
22 or take other action, as the State finds necessary to pro-
23 tect and advance universal service.

24 “(2) In considering methods of protecting and ad-
25 vancing universal service, the State may consider assisting

1 directly telecommunications carriers, assisting directly in-
2 dividuals and entities who cannot afford the cost of certain
3 telecommunications services, assisting directly individuals
4 or entities in purchasing or leasing equipment or program-
5 ming, allowing carriers to compete for the right to obtain
6 funding in exchange for providing certain services, and
7 other options. To the extent that a State establishes a
8 fund to support universal service, all provider of tele-
9 communications services shall be eligible to receive pay-
10 ment from such fund.

11 “(3) If a State has not implemented procedures to
12 carry out the objectives of paragraphs (1) and (2) within
13 two years after the date of enactment of this section, or
14 at any time thereafter fails to meet the objectives of such
15 paragraphs, the Commission shall assume the primary re-
16 sponsibility to ensure that those objectives are met.”

17 (b) CONFORMING AMENDMENT.—Section
18 332(c)(1)(A) of the Communications Act of 1934 (47
19 U.S.C. 332(c)(1)(A)) is amended by inserting “201A,”
20 immediately after “section 201,”.

21 **SEC. 103. PUBLIC ACCESS.**

22 (a) AMENDMENT.—Section 202 of the Communica-
23 tions Act of 1934 (47 U.S.C. 202) is amended by adding
24 at the end the following new subsection:

1 “(d)(1) Notwithstanding subsections (a) through (c),
2 it shall be the duty of all telecommunications carriers that
3 use public rights of way to permit educational institutions,
4 health-care institutions, local and State governments, pub-
5 lic broadcast stations, public libraries, other public enti-
6 ties, community newspapers, and broadcasters in the
7 smallest markets to obtain access to intrastate and inter-
8 state services provided by such carriers at preferential
9 rates. Entities that obtain services under this provision
10 may not resell such services, except to other entities that
11 are eligible for preferential rates under this subsection.

12 “(2) Within one year after the date of enactment of
13 this subsection, the Commission shall prescribe regulations
14 to enforce the provisions of this subsection.”.

15 (b) RULEMAKING ON ADVANCED TELECOMMUNI-
16 CATIONS SERVICES.—The Commission shall commence a
17 rulemaking proceeding for the purpose of prescribing reg-
18 ulations that—

19 (1) enhance, to the extent feasible, the availabil-
20 ity of advanced telecommunications services to all
21 public elementary and secondary school classrooms,
22 health care institutions, and libraries; and

23 (2) ensure that appropriate functional require-
24 ments or performance standards, or both, including
25 interoperability standards, are established for tele-

1 communications arrangements that interconnect
2 educational institutions, health care institutions, and
3 libraries with the public switched network.

4 **TITLE II—TELECOMMUNICATIONS**

5 **INVESTMENT**

6 **SEC. 201. INFRASTRUCTURE INVESTMENT.**

7 Title II of the Communications Act of 1934 (47
8 U.S.C. 201 et seq.), as amended by this Act, is further
9 amended by adding at the end the following new section:

10 **“SEC. 229. INFRASTRUCTURE INVESTMENT.**

11 “(a) RURAL MARKETS AND NONCOMPETITIVE MAR-
12 KETS.—If State regulatory authorities fail to achieve the
13 goal of ensuring that telecommunications carriers provide
14 consumers in rural markets and noncompetitive markets
15 with access to high quality, interoperable telecommuni-
16 cations network facilities and capabilities which—

17 “(1) provide subscribers with sufficient inter-
18 active bi-directional network capacity to allow access
19 to information services that provide a combination of
20 voice, data, image, and video; and

21 “(2) are widely available at reasonable non-
22 discriminatory rates that are based on reasonably
23 identifiable costs of providing such services,

24 then the Commission may take any action necessary to
25 achieve that goal.

1 “(b) FULL EFFECTUATION.—The Commission shall
2 have the authority to preempt any State or local statute
3 or regulation, or other State or local legal requirement,
4 that prevents the full effectuation of the goal embodied
5 in subsection (a).

6 “(c) STATE REGULATORY INCENTIVES.—The States
7 are encouraged to implement regulatory incentives to pro-
8 mote the development of high quality telecommunications
9 network facilities and capabilities. If regulatory incentives
10 fail to result in the deployment of high quality tele-
11 communications network facilities and capabilities in rural
12 markets and noncompetitive markets, the States may
13 adopt other methods to ensure that the goal of subsection
14 (a) is achieved.

15 “(d) NETWORK STANDARDS AND PLANNING.—

16 “(1) NETWORK STANDARDS.—

17 “(A) INTERCONNECTION AND INTEROPER-
18 ABILITY STANDARDS.—The Commission shall
19 encourage telecommunications carriers and tele-
20 communications equipment manufacturers to
21 develop standards to ensure interconnection and
22 interoperability of telecommunications net-
23 works.

24 “(B) INDUSTRY ASSISTANCE.—The Com-
25 mission shall, when necessary, establish dead-

1 lines, create incentives, or use other mecha-
2 nisms to assist the industry to develop and im-
3 plement such standards.

4 “(C) COMMISSION AUTHORITY TO ESTAB-
5 LISH STANDARDS.—The Commission may es-
6 tablish standards when industry participants
7 fail to reach agreement.

8 “(2) NETWORK PLANNING.—

9 “(A) REGULATIONS ON JOINT COORDI-
10 NATED ACTION.—The Commission shall pre-
11 scribe regulations that permit joint coordinated
12 network planning, design, and cooperative im-
13 plementation among all telecommunications car-
14 riers in the provision of public switched network
15 infrastructure and services.

16 “(B) PROCEDURES.—The Commission
17 shall prescribe regulations establishing proce-
18 dures to ensure that—

19 “(i) telecommunications carriers shall
20 make available timely information to other
21 such carriers and information service pro-
22 viders in the same geographic area about
23 the deployment of telecommunications
24 equipment, including software integral to
25 such telecommunications equipment, in-

1 cluding upgrades, that will affect a tele-
2 communications carrier's or information
3 service provider's ability to interconnect or
4 interoperate in the same geographic area;

5 “(ii) telecommunications carriers shall
6 not be required to share information re-
7 quired under clause (i) with anyone, in-
8 cluding carriers with whom they directly
9 compete, except as may be necessary to
10 meet the interconnection and interoper-
11 ability requirements set forth in this para-
12 graph; and

13 “(iii) the recipient of any information
14 described in clause (i) shall use it only for
15 its own interconnection and interoper-
16 ability.

17 “(3) INFRASTRUCTURE SHARING ARRANGE-
18 MENTS BETWEEN OR AMONG TELECOMMUNICATIONS
19 CARRIERS.—

20 “(A) REGULATIONS REQUIRED.—The
21 Commission shall prescribe regulations that re-
22 quire a local exchange carrier to share public
23 switched network infrastructure and function
24 with requesting telecommunications carriers

1 lacking economies of scale or scope, as defined
2 in subparagraph (B).

3 “(B) DEFINITION.—For the purposes of
4 this paragraph, the term ‘telecommunications
5 carrier lacking economies of scale or scope’
6 means any telecommunications carrier which
7 serves a geographic area for which it lacks
8 economies of scale or scope for the particular
9 required network function.

10 “(C) CONTENTS OF REGULATIONS.—The
11 regulations governing such sharing between
12 local exchange carriers and telecommunications
13 carriers shall—

14 “(i) promote economically efficient de-
15 cisionmaking by local exchange carriers
16 and telecommunications carriers lacking
17 economies of scale or scope;

18 “(ii) not require any local exchange
19 carrier or telecommunications carrier lack-
20 ing economies of scale or scope to make
21 any decision that is uneconomic or adverse
22 to the public interest;

23 “(iii) permit, but not require, joint
24 ownership and operation of public switched
25 network infrastructure and services by

1 local exchange carriers and telecommuni-
2 cations carriers lacking economies of scale
3 or scope;

4 “(iv) ensure that fair and reasonable
5 terms and conditions for and in connection
6 with the business arrangement described in
7 this paragraph are determined by local ex-
8 change carriers and telecommunications
9 carriers lacking economies of scale or scope
10 in accordance with general guidelines con-
11 tained in the regulations prescribed pursu-
12 ant to this paragraph:

13 “(v) establish conditions that promote
14 cooperation between local exchange carriers
15 and telecommunications carriers lacking
16 economies of scale or scope; and

17 “(vi) ensure that all regulation rights
18 and obligations for and in connection with
19 the business arrangements described in
20 this paragraph shall be determined exclu-
21 sively in accordance with the regulations
22 prescribed pursuant to his paragraph.

23 “(4) DISABILITY ACCESS.—The Commission
24 and the States shall ensure that advances in network
25 capabilities and telecommunications service deployed

1 by telecommunications carriers are designed to be ac-
2 cessible to individuals with disabilities.

3 “(e) ANNUAL SURVEY.—The Commission shall pub-
4 lish annually a survey of the deployment of technologies
5 on a State-by-State basis.

6 “(f) COST ALLOCATION REGULATIONS.—The Com-
7 mission shall develop regulations, consistent with the need
8 to protect universal service to allocate a local exchange
9 carrier’s costs of deploying of broadband telecommuni-
10 cations facilities between local exchange service and com-
11 petitive services.”.

12 **TITLE III—REGULATORY REFORM**

13 **SEC. 301. DEFINITIONS.**

14 Section 3 of the Communications Act of 1934 (49
15 U.S.C. 153) is amended by adding at the end the following
16 new subsections:

17 “(hh) ‘Local exchange carrier’ means a provider of
18 telephone exchange service that the Commission deter-
19 mines that market power.

20 “(ii) ‘Telecommunications’ means the transmission,
21 between or among points specified by the user, or informa-
22 tion of the user’s choosing, without change in the reform
23 or content of the information as sent and received, by
24 means of electromagnetic transmission, with or without
25 benefit of any closed transmission medium, including all

1 instrumentalities facilities, apparatus, and services (in-
2 cluding the receipt, switching, and delivery of such infor-
3 mation) essential to such transmission.

4 “(jj) ‘Telecommunications service’ means the offering
5 for profit to the public or to such classes and eligible users
6 as to be effectively available to a substantial portion of
7 the public of—

8 “(1) telecommunications facilities that (A) are
9 owned or controlled by a provider of telephone ex-
10 change service or (B) interconnect with the network
11 of a provider of telephone exchange service; or

12 “(2) telecommunications by means of such tele-
13 communications facilities.

14 Such term does not include information services.

15 “(kk) ‘Telecommunications carrier’ means any pro-
16 vider of telecommunications services, except that such
17 term does not include hotels, motels, hospitals, and other
18 aggregators of telecommunications services as defined in
19 section 226.

20 “(ll) ‘Telecommunications number portability’ means
21 the ability of users of telecommunications services to re-
22 tain existing telecommunications numbers without impair-
23 ment of quality, reliability, or convenience when switching
24 from one telecommunications carrier to another.

1 “(mm) ‘Information service’ means the offering of
2 services over common carrier transmission facilities which
3 employ computer processing applications that act on the
4 format, content, code, protocol or similar aspects of the
5 subscriber’s transmitted information, provide the sub-
6 scriber additional, different, or restructured information,
7 or involve subscriber interaction with stored information.

8 “(nn) ‘Bell operating company’ means any of the
9 companies listed in appendix A of the Modification of
10 Final Judgment, and includes any successor or assign of
11 any such company, but does not include any affiliate of
12 any such company.

13 “(oo) ‘Modification of Final Judgment’ means the de-
14 cree entered August 24, 1982, in United States v. Western
15 Electric, Civil Action No. 82–0192 (United States District
16 Court, District of Columbia).”.

17 **SEC. 302. REGULATORY REFORM.**

18 Title II of the Communications Act of 1934 (47
19 U.S.C. 201 et seq.), as amended by this Act, is further
20 amended by adding at the end the following new section:

21 **“SEC. 230. TELECOMMUNICATIONS COMPETITION.**

22 “(a) REMOVAL OF BARRIERS TO ENTRY.—Subject to
23 the provisions of section 301 of this Act, at such time as
24 the regulations required by section 201A of this Act have
25 been implemented, or 2 years after the date of enactment

1 of this section, whichever is earlier, no State or local stat-
2 ute or regulation, or other State or local legal requirement,
3 shall prohibit or have the effect of prohibiting the ability
4 of any entity to provide interstate or intrastate tele-
5 communications services. No State or local governmental
6 entity may unreasonably discriminate among tele-
7 communications carriers.

8 “(b) PROVISION OF TELECOMMUNICATIONS SERV-
9 ICES BY OTHER UTILITIES.—Notwithstanding any other
10 provision of law and subject to the regulatory safeguards
11 imposed by an appropriate regulatory agency, an electric,
12 gas, water, or steam utility may provide telecommuni-
13 cations services.

14 “(c) REGULATORY AUTHORITY.—Nothing in this sec-
15 tion shall affect the ability of State or local officials to
16 impose, on a competitively neutral basis, requirements
17 necessary to preserve and advance universal service, pro-
18 tect the public safety and welfare, ensure the continued
19 quality of telecommunications services, and safeguard the
20 rights of consumers.

21 “(d) OBLIGATIONS OF TELECOMMUNICATIONS CAR-
22 RIERS.—To the extent that they provide telecommuni-
23 cations services, telecommunications carriers shall be
24 deemed common carriers under this Act. The Commission
25 shall prescribe regulations to require each telecommuni-

1 cations carrier, upon bona fide request, to provide to any
2 telecommunications equipment manufacturer or any entity
3 seeking to provide telecommunications services or informa-
4 tion services, on reasonable terms and conditions—

5 “(1) interconnection to the carrier’s tele-
6 communications facilities at any technically and eco-
7 nomically feasible point within the carrier’s network;

8 “(2) nondiscriminatory access to any of the car-
9 rier’s telecommunications facilities and information
10 necessary to the transmission and routing of any
11 telecommunications service or information service
12 and the interoperability of both carriers’ networks;

13 “(3) nondiscriminatory access, where technically
14 and economically feasible, to the poles, ducts, con-
15 duits, and rights of way owned or controlled by the
16 carrier, and nondiscriminatory rates for such access;

17 “(4) nondiscriminatory access to the network
18 functions of the carrier’s telecommunications net-
19 work, which shall be offered on an unbundled basis;
20 and

21 “(5) telecommunications services and network
22 functions without any restrictions on the resale or
23 sharing of those services and functions.

24 The States may prescribe regulations implementing para-
25 graphs (1) through (5) for intrastate services so long as

1 such regulations are not inconsistent with those prescribed
2 by the Commission.

3 “(e) CONSUMER INFORMATION.—As competition for
4 telecommunications services develops, the Commission and
5 State regulatory authorities shall take action to ensure
6 that consumers are given the information necessary to
7 make informed choices among their telecommunications
8 alternatives.

9 “(f) TELECOMMUNICATIONS NUMBER PORT-
10 ABILITY.—The Commission shall prescribe regulations to
11 ensure that—

12 “(1) telecommunications number portability
13 shall be available, upon request, as soon as tech-
14 nically feasible; and

15 “(2) an impartial entity shall administer tele-
16 communications numbering and make such numbers
17 available on an equitable basis.

18 “(g) RECIPROCAL COMPENSATION AGREEMENTS.—
19 Telecommunications carriers shall compensate each other
20 on a reciprocal and equivalent basis for termination of
21 telecommunications services on each other’s networks.

22 “(h) REGULATORY FLEXIBILITY FOR COMPETITIVE
23 SERVICES.—

24 “(1) REGULATORY FLEXIBILITY.—In the event
25 that a telecommunications carrier does not have

1 market power in any or some of its telecommuni-
2 cations services in any or some of its geographic
3 markets, the Commission may streamline any regu-
4 lation or forbear from applying any provision of this
5 title (except for sections 201, 201A, 202, and 208)
6 to such a telecommunications carrier or service only
7 if the Commission determines that—

8 “(A) full application of such regulation or
9 provision is unnecessary in order to ensure that
10 the charges, practices, classifications, or regula-
11 tions for or in connection with that service are
12 just and reasonable and are not unjustly or un-
13 reasonably discriminatory;

14 “(B) full application of such regulation or
15 provision is unnecessary to achieve the goals of
16 this Act; and

17 “(C) such action is consistent with the
18 public interest and the protection of consumers.

19 Any finding by the Commission under section 332
20 that a provision of title II is inapplicable to a com-
21 mercial mobile service or a provider of commercial
22 mobile services shall be deemed also to be a deter-
23 mination under this paragraph that the require-
24 ments of subparagraphs (A), (B), and (C) of this
25 paragraph are satisfied.

1 “(2) PRICING FLEXIBILITY.—The Commission
2 shall and the States are encouraged to permit tele-
3 communications carriers to have pricing flexibility in
4 service or geographic markets that are found to be
5 competitive. In implementing this subsection, the
6 Commission and the States shall ensure that rates
7 for basic telephone service and for services that are
8 not competitive remain just and reasonable and that
9 universal service is preserved and advanced.

10 “(i) RULES FOR FOREIGN OWNERSHIP.—The provi-
11 sions of section 310(b) shall not apply to any lawful for-
12 eign ownership in a telecommunications carrier prior to
13 February 1, 1994, if that carrier was not regulated as a
14 common carrier prior to the date of enactment of this sec-
15 tion and is deemed to be a common carrier under this
16 Act.”.

17 **SEC. 303. IMPLEMENTING REGULATIONS.**

18 The Commission shall, within 12 months after the
19 date of enactment of this Act, issue regulations to imple-
20 ment this title. Such regulations shall take effect within
21 6 months after their issuance, except that the Commission
22 may extend such effective date for up to 24 additional
23 months for any small carrier providing telecommuni-
24 cations service in rural areas, upon a showing by the car-

1 rier that compliance would not be technically and economi-
2 cally feasible without additional time.

3 **TITLE IV—AUTHORIZED ACTIVITIES OF**
4 **BELL OPERATING COMPANIES**

5 **Subtitle A—Telecommunications Equipment**
6 **Research and Manufacturing Competition**

7 **SEC. 401. SHORT TITLE.**

8 This subtitle may be cited as the “Telecommuni-
9 cations Equipment Research and Manufacturing Competi-
10 tion Act of 1994”.

11 **SEC. 402. FINDINGS.**

12 The Congress finds that the continued economic
13 growth and the international competitiveness of American
14 industry would be assisted by permitting the Bell operat-
15 ing companies, through their affiliates, to manufacture
16 (including design, development, and fabrication) tele-
17 communications equipment and customer premises equip-
18 ment, and to engage in research with respect to such
19 equipment.

20 **SEC. 403. AMENDMENT TO COMMUNICATIONS ACT OF 1934.**

21 Title II of the Communications Act of 1934 (47
22 U.S.C. 201 et seq.), as amended by this Act, is further
23 amended by adding at the end the following new section:

1 **“SEC. 231. REGULATION OF MANUFACTURING BY BELL OP-**
2 **ERATING COMPANIES.**

3 “(a) AUTHORIZATION.—Subject to the requirements
4 of this section and the regulations prescribed thereunder,
5 a Bell operating company, through an affiliate of that
6 company, notwithstanding any restrictions or obligation
7 imposed before the date of enactment of this section pur-
8 suant to the Modification of Final Judgment on the lines
9 of business in which a Bell operating company may en-
10 gage, may manufacture and provide telecommunications
11 equipment and manufacture customer premises equip-
12 ment, except that neither a Bell operating company nor
13 any of its affiliates may engage in such manufacturing in
14 conjunction with a Bell operating company not so affili-
15 ated or any of its affiliates.

16 “(b) REQUIREMENT FOR SEPARATE AFFILIATE.—
17 Any manufacturing or provision authorized under sub-
18 section (a) shall be conducted only through an affiliate
19 (hereafter in this section referred to as a ‘manufacturing
20 affiliate’) that is separate from any Bell operating com-
21 pany.

22 “(c) MANUFACTURING REGULATIONS.—The Com-
23 mission shall prescribe regulations to ensure that—

24 “(1)(A) such manufacturing affiliate shall
25 maintain books, records, and accounts separate from
26 its affiliated Bell operating company, that identify

1 all transactions between the manufacturing affiliate
2 and its affiliated Bell operating company;

3 “(B) the Commission and the State commis-
4 sions that exercise regulatory authority over any Bell
5 operating company affiliated with such manufactur-
6 ing affiliate shall have access to the books, records,
7 and accounts required to be prepared under sub-
8 paragraph (A); and

9 “(C) such manufacturing affiliate shall, even if
10 it is not a publicly held corporation, prepare finan-
11 cial statements which are in compliance with Federal
12 financial reporting requirements for publicly held
13 corporations, file such statements with the Commis-
14 sion and the State commissions that exercise regu-
15 latory authority over any Bell operating company af-
16 filiated with such manufacturing affiliate, and make
17 such statements available for public inspection;

18 “(2) consistent with the provisions of this sec-
19 tion, neither a Bell operating company nor any of its
20 nonmanufacturing affiliates shall perform sales, ad-
21 vertising, installation, production, or maintenance
22 operations for a manufacturing affiliate; except that
23 institutional advertising, of a type not related to spe-
24 cific telecommunications equipment, carried out by

1 the Bell operating company or its affiliates shall be
2 permitted if each party pays its pro rata share;

3 “(3)(A) such manufacturing affiliate shall con-
4 duct all of its manufacturing within the United
5 States and, except as otherwise provided in this
6 paragraph, all component parts of customer prem-
7 ises equipment manufactured by such affiliate, and
8 all component parts of telecommunications equip-
9 ment manufactured by such affiliate, shall have been
10 manufactured within the United States;

11 “(B) such affiliate may use component parts
12 manufactured outside the United States if—

13 “(i) such affiliate first makes a good faith
14 effort to obtain equivalent component parts
15 manufactured within the United States at rea-
16 sonable prices, terms, and conditions; and

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

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

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

14 “(ii) certify to the Commission on an an-
15 nual basis that for the aggregate of tele-
16 communications equipment and customer prem-
17 ises equipment manufactured and sold in the
18 United States by such affiliate in the previous
19 calendar year, the cost of the components man-
20 ufactured outside the United States contained
21 in such equipment did not exceed the percent-
22 age specified in subparagraph (B)(ii) or ad-
23 justed in accordance with subparagraph (G);

24 “(D)(i) if the Commission determines, after re-
25 viewing the certification required in subparagraph

1 (C)(i), that such affiliate failed to make the good
2 faith effort required in subparagraph (B)(i) or, after
3 reviewing the certification required in subparagraph
4 (C)(ii), that such affiliate has exceeded the percent-
5 age specified in subparagraph (B)(ii), the Commis-
6 sion may impose penalties or forfeitures as provided
7 for in title V of this Act; and

8 “(ii) any supplier claiming to be damaged be-
9 cause a manufacturing affiliate failed to make the
10 good faith effort required in subparagraph (B)(i)
11 may make complaint to the Commission as provided
12 for in section 208 of this Act, or may bring suit for
13 the recovery of actual damages for which such sup-
14 plier claims such affiliate may be liable under the
15 provisions of this Act in any district court of the
16 United States of competent jurisdiction;

17 “(E) the Commission, in consultation with the
18 Secretary of Commerce, shall, on an annual basis,
19 determine the cost of component parts manufactured
20 outside the United States contained in all tele-
21 communications equipment and customer premises
22 equipment sold in the United States as a percentage
23 of the revenues from sales of such equipment in the
24 previous calendar year;

1 “(F) a manufacturing affiliate may use intellec-
2 tual property created outside the United States in
3 the manufacture of telecommunications equipment
4 and customer premises equipment in the United
5 States; and

6 “(G) the Commission may not waive or alter
7 the requirements of this subsection, except that the
8 Commission, on an annual basis, shall adjust the
9 percentage specified in subparagraph (B)(ii) to the
10 percentage determined by the Commission, in con-
11 sultation with the Secretary of Commerce, as di-
12 rected in subparagraph (E);

13 “(4) no more than 90 percent of the equity of
14 such manufacturing affiliate shall be owned by its
15 affiliated Bell operating company and any affiliates
16 of that Bell operating company;

17 “(5) any debt incurred by such manufacturing
18 affiliate may not be issued by its affiliates, and such
19 manufacturing affiliate shall be prohibited from in-
20 curring debt in a manner that would permit a credi-
21 tor, on default, to have recourse to the assets of its
22 affiliated Bell operating company’s telecommuni-
23 cations service business;

1 “(6) such manufacturing affiliate shall not be
2 required to operate separately from the other affili-
3 ates of its affiliated Bell operating company;

4 “(7) if an affiliate of a Bell operating company
5 becomes affiliated with a manufacturing entity, such
6 affiliate shall be treated as a manufacturing affiliate
7 of that Bell operating company within the meaning
8 of subsection (b) and shall comply with the require-
9 ments of this section;

10 “(8) such manufacturing affiliate shall make
11 available, without discrimination or self-preference
12 as to price, delivery, terms, or conditions, to all reg-
13 ulated local telephone exchange carriers, for use with
14 the public telecommunications network, any tele-
15 communications equipment, including software inte-
16 gral to such telecommunications equipment, includ-
17 ing upgrades, manufactured by such affiliate so long
18 as each such purchasing carrier—

19 “(A) does not either manufacture tele-
20 communications equipment, or have a manufac-
21 turing affiliate which manufactures tele-
22 communications equipment; or

23 “(B) agrees to make available, to the Bell
24 operating company affiliated with such manu-
25 facturing affiliate or any of the requested local

1 exchange telephone carrier affiliates of such
2 Bell company, any telecommunications equip-
3 ment, including software integral to such tele-
4 communications equipment, including upgrades,
5 manufactured for use with the public tele-
6 communications network by such purchasing
7 carrier or by any entity or organization with
8 which such purchasing carrier is affiliated;

9 “(9)(A) such manufacturing affiliate shall not
10 discontinue or restrict sales to other regulated local
11 telephone exchange carriers of any telecommuni-
12 cations equipment, including software integral to
13 such telecommunications equipment, including up-
14 grades, that such affiliate manufactures for sale as
15 long as there is reasonable demand for the equip-
16 ment by such carriers; except that such sales may be
17 discontinued or restricted if such manufacturing af-
18 filiate demonstrates to the Commission that it is not
19 making a profit, under a marginal cost standard im-
20 plemented by the Commission, on the sale of such
21 equipment;

22 “(B) in reaching a determination as to the ex-
23 istence of reasonable demand as referred to in sub-
24 paragraph (A), the Commission shall within 60 days
25 consider—

1 “(i) whether the continued manufacture of
2 the equipment will be profitable;

3 “(ii) whether the equipment is functionally
4 or technologically obsolete;

5 “(iii) whether the components necessary to
6 manufacture the equipment continue to be
7 available;

8 “(iv) whether alternatives to the equipment
9 are available in the market; and

10 “(v) such other factors as the Commission
11 deems necessary and proper;

12 “(10) Bell operating companies shall, consistent
13 with the antitrust laws, engage in joint network
14 planning and design with other regulated local tele-
15 phone exchange carriers operating in the same area
16 of interest; except that no participant in such plan-
17 ning shall delay the introduction of new technology
18 or the deployment of facilities to provide tele-
19 communications services, and agreement with such
20 other carriers shall not be required as a prerequisite
21 for such introduction or deployment; and

22 “(11) Bell operating companies shall provide, to
23 other regulated local telephone exchange carriers op-
24 erating in the same area of interest, timely informa-
25 tion on the planned deployment of telecommuni-

1 cations equipment, including software integral to
2 such telecommunications equipment, including up-
3 grades.

4 “(d) TELEPHONE EXCHANGE SERVICE REGULA-
5 TIONS.—

6 “(1) IN GENERAL.—The Commission shall pre-
7 scribe regulations to require that each Bell operating
8 company shall maintain and file with the Commis-
9 sion full and complete information with respect to
10 the protocols and technical requirements for connec-
11 tion with and use of its telephone exchange service
12 facilities. Such regulations shall require each such
13 Bell company to report promptly to the Commission
14 any material changes or planned changes to such
15 protocols and requirements, and the schedule for im-
16 plementation of such changes or planned changes.

17 “(2) DISCLOSURE RESTRICTION.—A Bell oper-
18 ating company shall not disclose to any of its affili-
19 ates any information required to be filed under para-
20 graph (1) unless that information is immediately so
21 filed.

22 “(3) COMPETITORS’ ACCESS TO INFORMA-
23 TION.—The Commission may prescribe such addi-
24 tional regulations under this subsection as may be
25 necessary to ensure that manufacturers in competi-

1 tion with a Bell operating company's manufacturing
2 affiliate have ready and equal access to the informa-
3 tion required for such competition that such Bell
4 company makes available to its manufacturing affili-
5 ate.

6 “(e) REQUIREMENTS FOR BELL OPERATING COMPA-
7 NIES WITH MANUFACTURING AFFILIATE.—The Commis-
8 sion shall prescribe regulations requiring that any Bell op-
9 erating company which has an affiliate that engages in
10 any manufacturing authorized by subsection (a) shall—

11 “(1) provide, to other manufacturers of tele-
12 communications equipment and customer premises
13 equipment, opportunities to sell such equipment to
14 such Bell operating company which are comparable
15 to the opportunities which such company provides to
16 its affiliates;

17 “(2) not subsidize its manufacturing affiliate
18 with revenues from its regulated telecommunications
19 services; and

20 “(3) only purchase equipment from its manu-
21 facturing affiliate at the open market price.

22 “(f) COLLABORATION WITH OTHER MANUFACTUR-
23 ERS.—A Bell operating company and its affiliates may en-
24 gage in close collaboration with any manufacturer of cus-
25 tomer premises equipment or telecommunications equip-

1 ment during the design and development of hardware,
2 software, or combinations thereof relating to such equip-
3 ment, consistent with subsection (e)(2).

4 “(g) ADDITIONAL RULES AND REGULATIONS.—The
5 Commission may prescribe such additional rules and regu-
6 lations as the Commission determines necessary to carry
7 out the provisions of this section.

8 “(h) ADMINISTRATION AND ENFORCEMENT.—

9 “(1) COMMISSION AUTHORITY.—For the pur-
10 poses of administering and enforcing the provisions
11 of this section and the regulations prescribed there-
12 under, the Commission shall have the same author-
13 ity, power, and functions with respect to any Bell
14 operating company as the Commission has in admin-
15 istering and enforcing the provisions of this title
16 with respect to any common carrier subject to this
17 Act.

18 “(2) CIVIL ACTIONS BY INJURED CARRIERS.—
19 Any regulated local telephone exchange carrier in-
20 jured by an act or omission of a Bell operating com-
21 pany or its manufacturing affiliate which violates the
22 requirements of paragraph (8) or (9) of subsection
23 (c), or the Commission’s regulations implementing
24 such paragraphs, may initiate an action in a district
25 court of the United States to recover the full amount

1 of damages sustained in consequence of any such
2 violation and obtain such orders from the court as
3 are necessary to terminate existing violations and to
4 prevent future violations; or such regulated local
5 telephone exchange carrier may seek relief from the
6 Commission pursuant to sections 206 through 209.

7 “(i) EFFECTIVE DATES; DEADLINE.—The authority
8 of the Commission to prescribe regulations to carry out
9 this section is effective on the date of enactment of this
10 section. The Commission shall prescribe such regulations
11 within 180 days after such date of enactment, and the
12 authority to engage in the manufacturing authorized in
13 subsection (a) shall not take effect until regulations pre-
14 scribed by the Commission under subsections (c), (d), and
15 (e) are in effect.

16 “(j) EFFECT ON PREEXISTING MANUFACTURING AU-
17 THORITY.—Nothing in this section shall prohibit any Bell
18 operating company from engaging, directly or through any
19 affiliate, in any manufacturing activity in which any Bell
20 operating company or affiliate was authorized to engage
21 on the date of enactment of this section.

22 “(k) ANNUAL AUDIT.—

23 “(1) IN GENERAL.—A Bell operating company
24 that manufactures or provides telecommunications
25 equipment or manufactures customer premises

1 equipment through an affiliate shall obtain and pay
2 for an annual audit conducted by an independent
3 auditor selected by and working at the direction of
4 the State commission of each State in which such
5 Bell company provides local exchange service, to de-
6 termine whether such Bell company has complied
7 with this section and the regulations promulgated
8 under this section, and particularly whether such
9 Bell company has complied with the separate ac-
10 counting requirements under subsection (c)(1).

11 “(2) SUBMISSION OF AUDIT RESULTS.—The
12 auditor described in paragraph (1) shall submit the
13 results of such audit to the Commission and to the
14 State commission of each State in which such Bell
15 company provides telephone exchange service. Any
16 party may submit comments on the final audit re-
17 port.

18 “(3) PROCEDURES APPLICABLE TO AUDIT.—
19 The audit required under paragraph (1) shall be
20 conducted in accordance with procedures established
21 by regulation by the State commission of the State
22 in which such Bell company provides local exchange
23 service, including requirements that—

1 “(A) the independent auditors performing
2 such audits are rotated to ensure their inde-
3 pendence; and

4 “(B) each audit submitted to the Commis-
5 sion and to the State commission is certified by
6 the auditor responsible for conducting the
7 audit.

8 “(4) COMMISSION REVIEW.—The Commission
9 shall periodically review and analyze the audits sub-
10 mitted to it under this subsection, and shall provide
11 to the Congress every 2 years—

12 “(A) a report of its findings on the compli-
13 ance of the Bell operating companies with this
14 section and the regulations promulgated there-
15 under; and

16 “(B) an analysis of the impact of such reg-
17 ulations on the affordability of local telephone
18 exchange service.

19 “(5) ACCESS TO ACCOUNTS AND RECORDS.—
20 For purposes of conducting audits and reviews
21 under this subsection, an independent auditor, the
22 Commission, and the State commission shall have
23 access to the financial accounts and records of each
24 Bell operating company and those of its affiliates
25 (including affiliates described in paragraphs (6) and

1 (7) of subsection (c)) necessary to verify trans-
2 actions conducted with such Bell operating company
3 that are relevant to the specific activities permitted
4 under this section and that are necessary to the
5 State's regulation of telephone rates. Each State
6 commission shall implement appropriate procedures
7 to ensure the protection of any proprietary informa-
8 tion submitted to it under this section.

9 “(l) DEFINITIONS.—As used in this section:

10 “(1) The term ‘affiliate’ means any organiza-
11 tion or entity that, directly or indirectly, owns or
12 controls, is owned or controlled by, or is under com-
13 mon ownership with a Bell operating company. Such
14 term includes any organization or entity (A) in
15 which a Bell operating company and any of its affili-
16 ates have an equity interest of greater than 10 per-
17 cent, or a management interest of greater than 10
18 percent, or (B) in which a Bell operating company
19 and any of its affiliates have any other significant fi-
20 nancial interest.

21 “(2) The term ‘Bell operating company’ means
22 those companies listed in appendix A of the Modi-
23 fication of Final Judgment, and includes any succes-
24 sor or assign of any such company, but does not in-
25 clude any affiliate of any such company.

1 “(3) The term ‘customer premises equipment’
2 means equipment employed on the premises of a
3 person (other than a carrier) to originate, route, or
4 terminate telecommunications.

5 “(4) The term ‘manufacturing’ has the same
6 meaning as such term has in the Modification of
7 Final Judgment as interpreted in *United States v.*
8 *Western Electric*, Civil Action No. 82-0192 (United
9 States District Court, District of Columbia) (filed
10 December 3, 1987).

11 “(5) The term ‘Modification of Final Judgment’ means the decree entered August 24, 1982, in
12 *United States v. Western Electric*, Civil Action No.
13 82-0192 (United States District Court, District of
14 Columbia).
15

16 “(6) The term ‘telecommunications’ means the
17 transmission, between or among points specified by
18 the user, of information of the user’s choosing, with-
19 out change in the form or content of the information
20 as sent and received, by means of an electromagnetic
21 transmission medium, including all instrumentalities,
22 facilities, apparatus, and services (including the col-
23 lection, storage, forwarding, switching, and delivery
24 of such information) essential to such transmission.

1 “(7) The term ‘telecommunications equipment’
2 means equipment, other than customer premises
3 equipment, used by a carrier to provide tele-
4 communications services.

5 “(8) The term ‘telecommunications service’
6 means the offering for hire of telecommunications
7 facilities, or of telecommunications by means of such
8 facilities.”.

9 **SEC. 404. INCREASED PENALTY FOR RECORDKEEPING VIO-**
10 **LATIONS.**

11 Section 220(d) of the Communications Act of 1934
12 (47 U.S.C. 220(d)) is amended by striking “\$6,000” and
13 inserting in lieu thereof “\$10,000”.

14 **SEC. 405. APPLICATION OF ANTITRUST LAWS.**

15 Nothing in this subtitle shall be deemed to alter the
16 application of Federal and State antitrust laws as inter-
17 preted by the respective courts.

18 **Subtitle B—Regulation of Alarm Services and**
19 **Electronic Publishing by Bell Operating**
20 **Companies**

21 **SEC. 451. REGULATION OF ENTRY INTO ALARM MONITOR-**
22 **ING SERVICES.**

23 (a) AMENDMENT.—Title II of the Communications
24 Act of 1934 (47 U.S.C. 201 et seq.), as amended by this

1 Act, is further amended by adding at the end the following
2 new section:

3 **“SEC. 232. REGULATION OF ENTRY INTO ALARM MONITOR-**
4 **ING SERVICES.**

5 “(a) IN GENERAL.—Except as provided in subsection
6 (c), no Bell operating company, or any affiliate of that
7 company, shall provide alarm monitoring services for the
8 protection of life, safety, or property. A Bell operating
9 company may transport alarm monitoring service signals
10 but on a common carrier basis only.

11 “(b) AUTHORITY TO PETITION.—Beginning 5½
12 years from the date of enactment of this section, a Bell
13 operating company or any affiliate of that company may
14 petition the Commission to seek permission to provide
15 alarm monitoring services for the protection of life, safety,
16 or property.

17 “(c) AUTHORITY TO PERMIT BELL OPERATING COM-
18 PANIES TO PROVIDE SERVICES.—Beginning 6 years from
19 the date of enactment of this section, the Commission
20 shall have the authority to permit a Bell operating com-
21 pany to provide alarm monitoring services for the protec-
22 tion of life, safety, or property; except that the Commis-
23 sion shall not grant such permission until—

24 “(1) the Department of Justice finds that there
25 is no substantial possibility that such Bell company

1 or its affiliates could use monopoly power to impede
2 competition in the market such Bell company seeks
3 to enter; and

4 “(2) the Commission finds that the provision of
5 alarm monitoring services by the Bell operating com-
6 pany is in the public interest and that the Commis-
7 sion has the capability to effectively enforce any re-
8 quirements, limitations, or conditions placed upon
9 the Bell operating company in the provision of alarm
10 monitoring services for the protection of life, safety,
11 or property, including the regulations it has pre-
12 scribed pursuant to subsection (d).

13 “(d) REGULATIONS REQUIRED.—Not later than 6
14 years after the date of enactment of this section, the Com-
15 mission shall prescribe regulations—

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

24 “(2) to prohibit Bell operating companies and
25 their affiliates, at that or any earlier time after the

1 date of enactment of this section, from recording in
2 any fashion the occurrence or the contents of calls
3 received by providers of alarm monitoring services
4 for the purposes of marketing such services on be-
5 half of the Bell operating company, any of its affili-
6 ates, or any other entity; and

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

13 “(e) EXPEDITED CONSIDERATION OF COM-
14 PLAINTS.—The procedures established under subsection
15 (d)(3) shall ensure that the Commission will make a final
16 determination with respect to any complaint described in
17 such subsection within 120 days after receipt of the com-
18 plaint. If the complaint contains an appropriate showing
19 that the alleged violation occurred, as determined by the
20 Commission in accordance with such regulations, the Com-
21 mission shall, within 60 days after receipt of the com-
22 plaint, issue a cease and desist order to prevent the Bell
23 operating company and its affiliates from continuing to
24 engage in such violation pending such final determination.

1 “(f) REMEDIES.—The Commission may use any rem-
2 edy available under title V of this Act to terminate and
3 punish violations described in subsection (d)(2). Such rem-
4 edies may include, if the Commission determines that such
5 violation was willful or repeated, ordering the Bell operat-
6 ing company to cease offering alarm monitoring services.

7 “(g) DEFINITIONS.—As used in this section:

8 “(1) the term ‘alarm monitoring services’
9 means services that detect threats to life, safety, or
10 property, by burglary, fire, vandalism, bodily injury,
11 or other emergency, through the use of devices that
12 transmit signals to a central point in a customer’s
13 residence, place of business, or other fixed premises
14 which—

15 “(A) retransmits such signals to a remote
16 monitoring center by means of telephone ex-
17 change service facilities, and

18 “(B) serves to alert persons at the mon-
19 itoring center of the need to inform police, fire,
20 rescue, or other security or public safety per-
21 sonnel of the threat at such premises.

22 Such term does not include medical monitoring de-
23 vices attached to individuals for the automatic sur-
24 veillance of ongoing medical conditions.

1 “(2) The term ‘Bell operating company’ has the
2 meaning given that term in section 233 of this Act.

3 “(3) The term ‘affiliate’ means a person that
4 (directly or indirectly) owns or controls, is owned or
5 controlled by, or is under common ownership or con-
6 trol with, another person. For purposes of this para-
7 graph, to own refers to owning an equity interest (or
8 equivalent thereof) of more than 50 percent.”.

9 **SEC. 452. REGULATION OF ELECTRONIC PUBLISHING.**

10 Title II of the Communications Act of 1934 (47
11 U.S.C. 201 et seq.), as amended by this Act, is further
12 amended by adding at the end the following new section:

13 **“SEC. 233. REGULATION OF ELECTRONIC PUBLISHING.**

14 “(a) IN GENERAL.—(1) A Bell operating company
15 and any affiliate shall not engage in the provision of elec-
16 tronic publishing that is disseminated by means of such
17 Bell operating company’s or any of its affiliates’ basic tele-
18 phone service.

19 “(2) Nothing in this section shall prohibit a separated
20 affiliate or electronic publishing joint venture from engag-
21 ing in the provision of electronic publishing or any other
22 lawful service in any area.

23 “(3) Nothing in this section shall prohibit a Bell op-
24 erating company or affiliate from engaging in the provi-
25 sion of any lawful service other than electronic publishing

1 in any area or from engaging in the provision of electronic
2 publishing that is not disseminated by means of such Bell
3 operating company's or any of its affiliates' basic tele-
4 phone service.

5 “(b) SEPARATED AFFILIATE OR ELECTRONIC PUB-
6 LISHING JOINT VENTURE REQUIREMENTS.—A separated
7 affiliate or electronic publishing joint venture shall—

8 “(1) maintain books, records, and accounts that
9 are separate from those of the Bell operating com-
10 pany and from any affiliate and which record in ac-
11 cordance with generally accepted accounting prin-
12 ciples all transactions, whether direct or indirect,
13 with the Bell operating company;

14 “(2) not incur debt in a manner that would per-
15 mit a creditor upon default to have recourse to the
16 assets of the Bell operating company;

17 “(3) prepare financial statements that are not
18 consolidated with those of the Bell operating com-
19 pany or any affiliate, provided that consolidated
20 statements may also be prepared;

21 “(4) file with the Commission annual reports in
22 a form substantially equivalent to the Form 10-K
23 referenced at 17 CFR 249.310 as that section and
24 form are in effect on the date of enactment;

1 “(5) after 1 year from the effective date of this
2 section, not hire as corporate officers sales and mar-
3 keting management personnel whose responsibilities
4 at the separated affiliate or electronic publishing
5 joint venture will include the geographic area where
6 the Bell operating company provides basic telephone
7 service, or network operations personnel whose re-
8 sponsibilities at the separated affiliate or electronic
9 publishing joint venture would require dealing di-
10 rectly with the Bell operating company, any person
11 who was employed by the Bell operating company
12 during the year preceding their date of hire, pro-
13 vided that this requirement shall not apply to per-
14 sons subject to a collective bargaining agreement
15 that gives such persons rights to be employed by a
16 separated affiliate or electronic publishing joint ven-
17 ture of the Bell operating company;

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

23 “(7) not use the name, trademarks, or service
24 marks of an existing Bell operating company except
25 for names or service marks that are or were used in

1 common with the entity that owns or controls the
2 Bell operating company;

3 “(8) have performed annually by March 31, or
4 any other date prescribed by the Commission, a
5 compliance review which—

6 “(A) must be conducted by an independent
7 entity which is subject to professional, legal,
8 and ethical obligations for the purpose of deter-
9 mining compliance during the preceding cal-
10 endar year with any provision of this section
11 that imposes a requirement on such separated
12 affiliate or electronic publishing joint venture;
13 and

14 “(B) must be maintained by the separated
15 affiliate for a period of 5 years subject to re-
16 view by any unlawful authority; and

17 “(9) within 90 days of receiving a review de-
18 scribed in paragraph (8), file a report of such excep-
19 tions and any corrective action with the Commission
20 and allow any person to inspect and copy such re-
21 port subject to reasonable safeguards to protect any
22 proprietary information contained in such report
23 from being used for purposes other than to enforce
24 or pursue remedies under this section.

1 “(c) BELL OPERATING COMPANY REQUIREMENTS.—

2 A Bell operating company under common ownership or
3 control with a separated affiliate or electronic publishing
4 joint venture shall—

5 “(1) not provide a separated affiliate any facili-
6 ties, services, or basic telephone service information
7 unless it makes such facilities, services, or informa-
8 tion available to unaffiliated entities upon request
9 and on the same terms and conditions;

10 “(2) carry out transactions with a separated af-
11 filiate in a manner equivalent to the manner that
12 unrelated parties would carry out independent trans-
13 actions and not based upon the affiliation;

14 “(3) carry out transactions with a separated af-
15 filiate, which involve the transfer of personnel, as-
16 sets, or anything of value, pursuant to written con-
17 tracts or tariffs that are filed with the Commission
18 and made publicly available;

19 “(4) carry out transactions with a separated af-
20 filiate in a manner that is auditable in accordance
21 with generally accepted accounting principles;

22 “(5) value any assets that are transferred to a
23 separated affiliate at the greater of net book cost or
24 fair market value;

1 “(6) value any assets that are transferred to it
2 by its separated affiliate at the lesser of net book
3 cost or fair market value;

4 “(7) except for—

5 “(A) instances where Commission or State
6 regulations permit in-arrears payment for
7 tariffed telecommunications services; or

8 “(B) the investment by an affiliate of divi-
9 dends or profits derived from a Bell operating
10 company,

11 not provide debt or equity financing directly or indi-
12 rectly to a separated affiliate;

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

16 “(9) have performed annually by March 31, or
17 any other date prescribed by the Commission, a
18 compliance review which—

19 “(A) must be conducted by an independent
20 entity which is subject to professional, legal,
21 and ethical obligations for the purpose of deter-
22 mining compliance during the preceding cal-
23 endar year with any provision of this section
24 that imposes a requirement on such Bell oper-
25 ating company; and

1 “(B) must be maintained by the Bell oper-
2 ating company for a period of 5 years subject
3 to review by any lawful authority;

4 “(10) within 90 days of receiving a review de-
5 scribed in paragraph (9), file a report of such excep-
6 tions and any corrective action with the Commission
7 and allow any person to inspect and copy such re-
8 port subject to reasonable safeguards to protect any
9 proprietary information contained in such report
10 from being used for purposes other than to enforce
11 or pursue remedies under this section;

12 “(11) if it provides facilities or services for tele-
13 communication, transmission, billing and collection,
14 or physical collocation to any electronic publisher,
15 including a separated affiliate, for use with or in
16 connection with the provision of electronic publishing
17 that is disseminated by means of such Bell operating
18 company’s or any of its affiliates’ basic telephone
19 service, provide to all other electronic publishers the
20 same type of facilities and services on request, on
21 the same terms and conditions or as required by the
22 Commission or a State, and unbundled and individ-
23 ually tariffed to the same extent as provided to such
24 publisher;

1 “(12) provide network access and interconnec-
2 tions for basic telephone service to electronic pub-
3 lishers at prices that are regulated so long as the
4 prices for these services are subject to regulation;

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

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

15 “(15) provide reasonable advance notification at
16 the same time and on the same terms to all affected
17 electronic publishers of information relating to
18 changes in basic telephone service network design
19 and technical standards which would affect the pro-
20 vision of electronic publishing;

21 “(16) not directly or indirectly provide anything
22 of monetary value to a separated affiliate unless in
23 exchange for consideration at least equal to the
24 greater of its net book cost or fair market value, ex-

1 cept the investment by an affiliate of dividends or
2 profits derived from a Bell operating company;

3 “(17) not discriminate in the presentation or
4 provision of any gateway for electronic publishing
5 services or any electronic directory of information
6 services, which is provided over such Bell operating
7 company’s basic telephone service;

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

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

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

14 “(21) not perform the purchasing, installation,
15 or maintenance of equipment on its behalf of a sepa-
16 rated affiliate, except for telephone service that it
17 provides under tariff or contract subject to the pro-
18 visions of this section; and

19 “(22) not perform research and development on
20 behalf of a separated affiliate.

21 “(d) CUSTOMER PROPRIETARY NETWORK INFORMA-
22 TION.—A Bell operating company or any affiliate shall not
23 provide to any electronic publisher, including a separated
24 affiliate or electronic publishing joint venture, customer
25 proprietary network information for use with or in connec-

1 tion with the provision of electronic publishing that is dis-
2 seminated by means of such Bell operating company's or
3 any of its affiliates' basic telephone service that is not
4 made available by the Bell operating company or affiliate
5 to all electronic publishers on the same terms and condi-
6 tions.

7 “(e) COMPLIANCE WITH SAFEGUARDS.—A Bell oper-
8 ating company, affiliate or its separated affiliate is prohib-
9 ited from acting in concert with another Bell operating
10 company or any entity in order to knowingly and willfully
11 violate or evade the requirements of this section.

12 “(f) TELEPHONE OPERATING COMPANY DIVI-
13 DENDS.—Nothing in this section shall prohibit an affiliate
14 from investing dividends derived from a Bell operating
15 company in its separated affiliate and subsections (i) and
16 (j) of this section shall not apply to any such investment.

17 “(g) JOINT MARKETING, AND SO FORTH.—Except as
18 provided in subsection (h)—

19 “(1) a Bell operating company shall not carry
20 out any promotion, marketing, sales, or advertising
21 for or in conjunction with a separated affiliate; and

22 “(2) a Bell operating company shall not carry
23 out any promotion, marketing, sales, or advertising
24 or in conjunction with an affiliate that is related to
25 the provision of electronic publishing.

1 “(h) PERMISSIBLE JOINT ACTIVITIES.—

2 “(1) JOINT TELEMARKETING.—A Bell operat-
3 ing company may provide inbound telemarketing or
4 referral services related to the provision of electronic
5 publishing for a separated affiliate, electronic pub-
6 lishing joint venture, affiliate, or unaffiliated elec-
7 tronic publisher, provided that if such services are
8 provided to a separated affiliate, electronic publish-
9 ing joint venture, or affiliate, such services shall be
10 made available to all electronic publishers on re-
11 quest, on nondiscriminatory terms, at compensatory
12 prices, and subject to regulations of the Commission
13 to ensure that the Bell operating company’s method
14 of providing telemarketing or referral and its price
15 structure do not competitively disadvantage any elec-
16 tronic publishers regardless of size, including those
17 which do not use the Bell operating company’s
18 telemarketing services.

19 “(2) TEAMING ARRANGEMENTS.—A Bell oper-
20 ating company may engage in nondiscriminatory
21 teaming or business arrangements to engage in elec-
22 tronic publishing with any separated affiliate or with
23 any other electronic publisher provided that the Bell
24 operating company only provides facilities, services,
25 and basic telephone service information as author-

1 ized by this section and provided that the Bell oper-
2 ating company own such teaming or business ar-
3 rangement.

4 “(3) ELECTRONIC PUBLISHING JOINT VEN-
5 TURES.—A Bell operating company or affiliate may
6 participate on a nonexclusive basis in electronic pub-
7 lishing joint ventures with entities that are not any
8 Bell operating company, affiliate, or separated affili-
9 ate to provide electronic publishing services, provided
10 that the Bell operating company or affiliate has not
11 more than a 50 percent direct or indirect equity in-
12 terest (or the equivalent thereof) or the right to
13 more than 50 percent of the gross revenues under
14 a revenue sharing or royalty agreement in any elec-
15 tronic publishing joint venture. Officers and employ-
16 ees of a Bell operating company or affiliate partici-
17 pating in an electronic publishing joint venture may
18 not have more than 50 percent of the voting control
19 over the electronic publishing joint venture. In the
20 case of joint ventures with small, local electronic
21 publishers, the Commission for good cause shown
22 may authorize the Bell operating company or affili-
23 ate to have a larger equity interest, revenue share,
24 or voting control but not to exceed 80 percent. A
25 Bell operating company participating in an elec-

1 tronic publishing joint venture may provide pro-
2 motion, marketing, sales, or advertising personnel
3 and services to such joint venture.

4 “(i) TRANSACTIONS RELATED TO THE PROVISION OF
5 ELECTRONIC PUBLISHING BETWEEN A TELEPHONE OP-
6 ERATING COMPANY AND ANY AFFILIATE.—

7 “(1) Any provision of facilities, services, or
8 basic telephone service information or any transfer
9 of assets, personnel, or anything of commercial or
10 competitive value from a Bell operating company to
11 any affiliate related to the provision of electronic
12 publishing shall be—

13 “(A) recorded in the books and records of
14 each entity;

15 “(B) auditable in accordance with gen-
16 erally accepted accounting principles; and

17 “(C) pursuant to written contracts or tar-
18 iffs filed with the Commission or a State and
19 made publicly available.

20 “(2) Any transfer of assets directly related to
21 the provision of electronic publishing from a Bell op-
22 erating company to an affiliate shall be valued at the
23 greater of net book cost or fair market value. Any
24 transfer of assets related to the provision of elec-
25 tronic publishing from an affiliate to the Bell operat-

1 ing company shall be valued at the lesser of net book
2 cost or fair market value.

3 “(3) A Bell operating company shall not pro-
4 vide an affiliate any facilities, services, or basic tele-
5 phone service information related to the provision of
6 electronic publishing, which such affiliate then di-
7 rectly or indirectly provides to a separated affiliate,
8 and which is not made available to unaffiliated com-
9 panies on the same terms and conditions.

10 “(j) TRANSACTIONS RELATED TO THE PROVISION OF
11 ELECTRONIC PUBLISHING BETWEEN AN AFFILIATE AND
12 A SEPARATED AFFILIATE.—

13 “(1) Any facilities, services, or basic telephone
14 service information provided or any assets, person-
15 nel, or anything of commercial or competitive value
16 transferred, from a Bell operating company to any
17 affiliate as described in subsection (i) and then pro-
18 vided or transferred to a separated affiliate shall
19 be—

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

22 “(B) auditable in accordance with gen-
23 erally accepted accounting principles; and

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

4 “(2) Any transfer of assets directly related to
5 the provision of electronic publishing from a Bell op-
6 erating company to any affiliate as described in sub-
7 section (i) and then transferred to a separated affili-
8 ate shall be valued at the greater of net book cost
9 or fair market value. Any transfer of assets related
10 to the provision of electronic publishing from a sepa-
11 rated affiliate to any affiliate and then transferred
12 to the Bell operating company as described in sub-
13 section (i) shall be valued at the lesser of net book
14 cost or fair market value.

15 “(3) An affiliate shall not provide a separated
16 affiliate any facilities, services, or basic telephone
17 service information related to the provision of elec-
18 tronic publishing, which were provided to such affili-
19 ate directly or indirectly by a Bell operating com-
20 pany, and which is not made available to unaffiliated
21 companies on the same terms and conditions.

22 “(k) OTHER ELECTRONIC PUBLISHERS.—Except as
23 provided in subsection (h)(3)—

24 “(1) a bell operating company shall not have
25 any officers, employees, property, or facilities in

1 common with any entity whose principal business is
2 publishing of which a part is electronic publishing;

3 “(2) no officer or employee of a Bell operating
4 company shall serve as a director of any entity
5 whose principal business is publishing of which a
6 part is electronic publishing;

7 “(3) for the purposes of paragraphs (1) and
8 (2), a Bell operating company or an affiliate that
9 owns an electronic publishing joint venture shall not
10 be deemed to be engaged in the electronic publishing
11 business solely because of such ownership;

12 “(4) a Bell operating company shall not carry
13 out—

14 “(A) any marketing or sales for any entity
15 that engages in electronic publishing; or

16 “(B) any hiring of personnel, purchasing,
17 or production, for any entity that engages in
18 electronic publishing; and

19 “(5) the Bell operating company shall not pro-
20 vide any facilities, services, or basic telephone service
21 information to any entity that engages in electronic
22 publishing, for use with or in connection with the
23 provision of electronic publishing that is dissemi-
24 nated by means of such Bell operating company’s or
25 any of its affiliates’ basic telephone service, unless,

1 equivalent facilities, services, or information are
2 made available on equivalent terms and conditions to
3 all.

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

9 “(m) SUNSET.—The provisions of this section shall
10 cease to apply to a Bell operating company or its affiliate
11 or separated affiliate in any telephone exchange area on
12 June 30, 2000.

13 “(n) PRIVATE RIGHT OF ACTION.—

14 “(1) Any person claiming that any act or prac-
15 tice of any Bell operating company, affiliate, or sep-
16 arated affiliate constitutes a violation of this section
17 may file a complaint with the Commission or bring
18 suit as provided in section 207 of this Act, and such
19 Bell operating company, affiliate, or separated affili-
20 ate shall be liable as provided in section 206 of this
21 Act: *Provided, however,* That damages may not be
22 awarded for a violation that is discovered by a com-
23 pliance review as required by subsection (b)(8) or
24 (c)(9) of this section and corrected within 90 days.

1 “(2) In addition to the provisions of paragraph
2 (1), any person claiming that any act or practice of
3 any Bell operating company, affiliate, or separated
4 affiliate constitutes a violation of this section may
5 make application to the Commission for an order to
6 cease and desist such violation or may make applica-
7 tion in any district court of the United States of
8 competent jurisdiction for an order enjoining such
9 acts or practices or for an order compelling compli-
10 ance with such requirement.

11 “(o) ANTITRUST LAWS.—Nothing in this section
12 shall be construed to modify, impair, or supersede the ap-
13 plicability of any of the antitrust laws.

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

15 “(1) The term ‘affiliate’ means any entity that,
16 directly or indirectly, owns or controls, is owned or
17 controlled by, or is under common ownership or con-
18 trol with, a Bell operating company. Such term shall
19 not include a separated affiliate.

20 “(2) the term ‘basic telephone service’ means
21 wireline telephone exchange service provided by a
22 Bell operating company in a telephone exchange
23 area, except—

24 “(A) a competitive wireline telephone ex-
25 change service provided in a telephone exchange

1 area where another entity provides a wireline
2 telephone exchange service that was provided on
3 January 1, 1984; and

4 “(B) wireless telephone exchange service
5 provided by an affiliate that is required by the
6 Commission to be a corporate entity separate
7 from the Bell operating company.

8 “(3) The term ‘basic telephone service informa-
9 tion’ means network and customer information of a
10 Bell operating company and other information ac-
11 quired by a Bell operating company as a result of
12 its engaging in the provision of basic telephone
13 service.

14 “(4) The term ‘control’ has the meaning that it
15 has in 17 CFR 240.12b-2, the regulations promul-
16 gated by the Securities and Exchange Commission
17 pursuant to the Securities Exchange Act of 1934
18 (15 U.S.C. 78a et seq.) or any successor provision
19 to such section.

20 “(5) The term ‘customer proprietary network
21 information’ means—

22 “(A) information which—

23 “(i) relates to the quantity, technical
24 configuration, type, destination, and
25 amount of use of telephone exchange serv-

1 ice or interexchange telephone service sub-
2 scribed to by any customer of a Bell oper-
3 ating company, and

4 “(ii) is available to the Bell operating
5 company by virtue of the telephone com-
6 pany-customer relationship; and

7 “(B) information contained in the bills for
8 telephone exchange service or interexchange
9 telephone service received by a customer of a
10 Bell operating company.

11 “(6)(A) The term ‘electronic publishing’ means
12 the dissemination, provision, publication, or sale by
13 a provider or publisher to an unaffiliated entity or
14 person using a Bell operating company’s local ex-
15 change facility of any information which the provider
16 or publisher has or has caused to be originated, au-
17 thored, compiled, collected, or edited or in which the
18 provider or publisher has direct or indirect financial
19 or proprietary interest, including but not limited to
20 the following:

21 “(i) News or entertainment.

22 “(ii) Business, financial, legal, consumer,
23 or credit material.

24 “(iii) Editorials.

25 “(iv) Columns.

1 “(v) Sports reporting.

2 “(vi) Features.

3 “(vi) Advertising.

4 “(viii) Photos or images.

5 “(ix) Archival or research material.

6 “(x) Legal notices or public records.

7 “(xi) Scientific, educational, instructional,
8 technical, professional, trade, or other literary
9 materials.

10 “(xii) Other like or similar information.

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

13 “(i) Information access as that term is de-
14 fined by the Modification of Final Judgment.

15 “(ii) The transmission of information as a
16 common carrier.

17 “(iii) The transmission of information as
18 part of a gateway to an information service that
19 does not involve the generation or alteration of
20 the content of information, including data
21 transmission, address translation, protocol con-
22 version, billing management, introductory infor-
23 mation content, and navigational systems that
24 enable users to access electronic publishing

1 services, which do not affect the presentation of
2 such electronic publishing services to users.

3 “(iv) Voice storage and retrieval services,
4 including voice messaging and electronic mail
5 services.

6 “(v) Level 2 gateway services as those
7 services are defined by the Commission’s Sec-
8 ond Report and Order, Recommendation to
9 Congress and Second Further Notice of Pro-
10 posed Rulemaking in CC Docket No. 87–266
11 dated August 14, 1992.

12 “(vi) Data processing services that do not
13 involve the generation or alteration of the con-
14 tent of information.

15 “(vii) Transaction processing systems that
16 do not involve the generation or alteration of
17 the content of information.

18 “(viii) Electronic billing or advertising of a
19 Bell operating company’s regulated tele-
20 communications services.

21 “(ix) Language translation.

22 “(x) Conversion of data from one format
23 to another.

24 “(xi) The provision of information nec-
25 essary for the management, control, or oper-

1 ation of a telephone company telecommuni-
2 cations system.

3 “(xii) The provision of directory assistance
4 that provides names, addresses, and telephone
5 numbers and does not include advertising.

6 “(xiii) Caller identification services.

7 “(xiv) Repair and provisioning databases
8 for telephone company operations.

9 “(xv) Credit card and billing validation for
10 telephone company operations.

11 “(xvi) 911-E and other emergency assist-
12 ance databases.

13 “(xvii) Any other network service of a type
14 that is like or similar to these network services
15 and that does not involve the generation or al-
16 teration of the content of information.

17 “(xviii) Any upgrades to these network
18 services that do not involve the generation or
19 alteration of the content of information.

20 “(C) The term ‘electronic publishing’ also shall
21 not include—

22 “(i) full motion video entertainment on de-
23 mand; and

24 “(ii) video programming as defined in sec-
25 tion 602 of this Act.

1 “(7) The term ‘electronic publishing joint ven-
2 ture’ means a joint venture owned by a Bell operat-
3 ing company or affiliate that engages in the provi-
4 sion of electronic publishing which is disseminated
5 by means of such Bell operating company’s or any
6 of its affiliates’ basic telephone service.

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

10 “(9) The term ‘inbound telemarketing’ means
11 the marketing of property, goods, or services by tele-
12 phone to a customer or potential customer who initi-
13 ated the call.

14 “(10) The term ‘own’ with respect to an entity
15 means to have a direct or indirect equity interest (or
16 the equivalent thereof) of more than 10 percent of
17 an entity, or the right to more than 10 percent of
18 the gross revenues of an entity under a revenue
19 sharing or royalty agreement.

20 “(11) The term ‘separated affiliate’ means a
21 corporation under common ownership or control with
22 a Bell operating company that does not own or con-
23 trol a Bell operating company and is not owned or
24 controlled by a Bell operating company and that en-
25 gages in the provision of electronic publishing which

1 is disseminated by means of such Bell operating
2 company's or any of its affiliates' basic telephone
3 service.

4 “(12) The term ‘Bell operating company’ means
5 the corporations subject to the Modification of Final
6 Judgment and listed in Appendix A thereof, or any
7 entity owned or controlled by such corporation, or
8 any successor or assign of such corporation, but
9 does not include an electronic publishing joint ven-
10 ture owned by such corporation or entity.”.

11 **Subtitle C—Information Services**

12 **SEC. 491. PROVISION OF INFORMATION SERVICES.**

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

16 **“SEC. 234. PROVISION OF INFORMATION SERVICES.**

17 “(a) PROVISION OF GATEWAY SERVICES.—Unless ex-
18 pressly provided elsewhere in this Act, and Bell operating
19 company or affiliate thereof that offers a gateway service
20 shall make such service available concurrently to all of its
21 subscribers under nondiscriminatory rates, terms, and
22 conditions, and shall offer gateway service functions to all
23 providers of information services on nondiscriminatory
24 rates, terms, and conditions.

1 “(b) PREVENTION OF CROSS-SUBSIDIES.—In addi-
2 tion to regulations on cross-subsidization that are pre-
3 scribed under other provisions of this Act, the Commission
4 shall prescribe cost allocation regulations to prevent any
5 Bell operating company or affiliate that offers services
6 that have market power from using revenues from such
7 services to subsidize competitive information services.

8 “(c) RESTRICTION ON STATE REGULATION.—Not-
9 withstanding section 2(b) of this Act, a State may not reg-
10 ulate the rates, terms, or conditions for the offering of
11 information services, except as provided in title VI.

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

13 “(1) The term ‘Bell operating company’ has the
14 meaning given that term under section 231.

15 “(2) The term ‘gateway service’ means an in-
16 formation service that, at the request of the provider
17 of an electronic publishing service or other informa-
18 tion service, provides a subscriber with access to
19 such electronic publishing service or other informa-
20 tion service, utilizing the following functions: data
21 transmission, address translation, billing informa-
22 tion, protocol conversion, and introductory informa-
23 tion content.

24 “(3) The term ‘affiliate’ has the meaning given
25 that term under section 236 of this Act.”.

1 **Subtitle D—InterLATA Telecommunications**
2 **Services**

3 **SEC. 481. INTERLATA TELECOMMUNICATIONS SERVICES.**

4 Title II of the Communications Act of 1934 (47
5 U.S.C. 201 et seq.), as amended by this Act, is further
6 amended by adding at the end the following new section:

7 **“SEC. 235. INTERLATA TELECOMMUNICATIONS SERVICES.**

8 “(a) **AUTHORITY.**—Notwithstanding any restriction
9 or obligation imposed before the date of enactment of this
10 section pursuant to section II(D) of the Modification of
11 Final Judgment, a Bell operating company may engage
12 in the provision of interLATA telecommunications services
13 subject to the requirements of this section and any regula-
14 tions prescribed thereunder. No Bell operating company
15 or affiliate of a Bell operating company shall engage in
16 the provision of interLATA telecommunications services,
17 except as provided in this section.

18 “(b) **CURRENTLY AUTHORIZED ACTIVITIES.**—Sub-
19 section (a) shall not prohibit a Bell operating company
20 from engaging, at any time after the date of enactment
21 of this section, in any activity as authorized by an order
22 entered by the United States District Court for the Dis-
23 trict of Columbia pursuant to section VIII(C) of the Modi-
24 fication of Final Judgment if such order was entered on
25 or before such date of enactment.

1 “(c) PETITION FOR AUTHORITY.—

2 “(1) IN GENERAL.—A Bell operating company
3 or its affiliate may petition the Commission for au-
4 thority to provide interLATA telecommunications
5 services. The petition shall describe with particular-
6 ity the nature and scope of each proposed
7 interLATA telecommunications service, and of each
8 product market or service market, and each geo-
9 graphic market, for which authorization is sought.

10 “(2) REQUIRED SHOWING FOR IN-MARKET
11 SERVICES.—The Commission may, after consultation
12 with the Attorney General, and on the record after
13 opportunity for a hearing in which the public has an
14 opportunity to participate, grant a petition for au-
15 thority to offer an interLATA telecommunications
16 service to be originated, terminated, or otherwise
17 provided in any area in which the petitioner or its
18 affiliate provides telephone exchange or exchange ac-
19 cess services, only if—

20 “(A) the showing required by paragraph
21 (3) is made;

22 “(B) all the regulations required by section
23 230 have been prescribed by the Commission,
24 and each relevant State certifies and the Com-
25 mission finds that the petitioning Bell operating

1 company or its affiliate is providing telephone
2 exchange and exchange access service in the rel-
3 evant telephone exchange or exchange access
4 market in full compliance with such regulations;
5 and

6 “(C) the Commission finds, after receiving
7 factual evidence submitted by the State, that
8 there is actual and demonstrable competition to
9 the Bell operating company’s telephone ex-
10 change and exchange access services in each
11 relevant area, based on the requirement that
12 actual and demonstrable competition exists
13 when telephone exchange and exchange access
14 services—

15 “(i) are available from at least one
16 provider that is unaffiliated with the peti-
17 tioning Bell operating company or its af-
18 filiates;

19 “(ii) offered predominantly over facili-
20 ties not owned or controlled by the Bell op-
21 erating company or its affiliates and are
22 comparable in geographic range, function,
23 quality, and price to the service offered by
24 the petitioning Bell operating company or
25 its affiliate; and

1 “(iii) subscribed to by a significant
2 number of persons in each relevant area.

3 “(3) REQUIRED SHOWING FOR OUT-OF-MARKET
4 SERVICES.—The Commission may, after consultation
5 with the Attorney General, and on the record after
6 opportunity for a hearing in which the public has an
7 opportunity to participate, grant authority to a peti-
8 tioning Bell operating company or its affiliate to
9 provide interLATA telecommunications services not
10 described in paragraph (2), upon a showing by the
11 petitioner that there is no substantial possibility that
12 the Bell operating company or its affiliates could use
13 market power in a telephone exchange and exchange
14 access service market to impede competition in the
15 interLATA telecommunications services market that
16 the petitioner seeks to enter.

17 “(4) INTERLATA TELECOMMUNICATIONS SERV-
18 ICE SAFEGUARDS.—

19 “(A) SEPARATE SUBSIDIARY; FULFILL-
20 MENT OF CERTAIN REQUESTS.—Other than
21 interLATA services authorized by an order en-
22 tered by the United States District Court for
23 the District of Columbia pursuant to section
24 VIII(C) of the Modification of Final Judgment
25 before the date of the enactment of this section,

1 a Bell operating company or an affiliate thereof
2 providing interLATA services authorized under
3 this subsection shall do so through a separate
4 subsidiary as specified in section 236. Such sep-
5 arate subsidiary shall—

6 “(i) fulfill any requests from an unaf-
7 filiated entity for exchange access service
8 within a period no longer than that in
9 which it provides such exchange access
10 service to itself or to its affiliates;

11 “(ii) fulfill any such requests with ex-
12 change access service of a quality that
13 meets or exceeds the quality of exchange
14 access services provided by the Bell operat-
15 ing company or its affiliates to itself or its
16 affiliate; and

17 “(iii) provide exchange access at rates
18 to all interLATA carrier at rates that are
19 not unreasonably discriminatory.

20 “(B) COMMISSION ACTION ON COM-
21 PLAINTS.—With respect to any complaint
22 brought under section 208 alleging a violation
23 of this section or the regulations implementing
24 it, the Commission shall issue a final order
25 within 1 year after such complaint is filed.

1 “(d) ADDITIONAL INTERLATA AUTHORITY ASSOCI-
2 ATED WITH CABLE TELEVISION SERVICE.—

3 “(1) AUTHORITY.—Notwithstanding subsection
4 (c), a Bell operating company or its affiliate may—

5 “(A) own and operate receive-only anten-
6 nas, satellite master antenna television facili-
7 ties, and satellite earth stations, solely for the
8 purpose of providing cable service;

9 “(B) own and operate interLATA distribu-
10 tion facilities solely for the purpose of providing
11 cable service; and

12 “(C) engage in interLATA telecommuni-
13 cations service for the purpose of one-way
14 transmission of video and audio programming
15 solely for cable service.

16 “(2) RESTRICTION.—A Bell operating company
17 may own and operate the antennas, stations, and fa-
18 cilities described in paragraph (1)(A) and (B) only
19 through one or more affiliates that are totally sepa-
20 rate from the Bell operating company’s local ex-
21 change company.

22 “(e) ADDITIONAL AUTHORITY TO PROVIDE
23 INTERLATA SERVICES RELATING TO CELLULAR MOBILE
24 RADIO SERVICES.—

1 “(1) AUTHORITY.—A Bell operating company
2 or its cellular affiliate may provide the interLATA
3 services authorized under this section solely as nec-
4 essary to provide cellular mobile radio services.

5 “(2) INTERSYSTEM HANDOFF.—A Bell operat-
6 ing company or its cellular affiliate may provide
7 intersystem handoff, across LATA boundaries, of
8 cellular mobile radio transmissions between adjacent
9 cellular systems, including the provision of such
10 transmission facilities as are necessary to allow the
11 continuation of calls in progress without interruption
12 or degradation of service due to the movement of the
13 mobile telephone unit or the characteristics of radio
14 propagation.

15 “(3) AUTOMATIC CALL DELVIERY.—A Bell op-
16 erating company or its cellular affiliate may provide
17 the routing of cellular transmissions between its cel-
18 lular system and a cellular system located in another
19 LATA, for purposes of completing a call to one of
20 its out-of-region cellular customers.

21 “(4) USE OF LEASED FACILITIES.—Facilities
22 necessary for intersystem handoff across LATA
23 boundaries or interLATA routing of cellular trans-
24 missions, as permitted under paragraphs (2) and
25 (3), shall be leased by a Bell operating company or

1 its cellular affiliate from a carrier (other than a Bell
2 operating company or its affiliate) authorized to pro-
3 vide interLATA telecommunications.

4 “(5) EQUAL ACCESS AND PRESUBSCRIPTION.—
5 Notwithstanding any restriction or obligation im-
6 posed pursuant to the Modification of Final Judg-
7 ment before the date of enactment of this section,
8 the Commission shall prescribe uniform equal access
9 and long distance presubscription requirements for
10 providers of all cellular and two-way wireless serv-
11 ices.

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

13 “(1) The term ‘LATA’ means the local access
14 and transport areas as defined in *United States v.*
15 *Western Electric Co.*, 569 F.Supp. 990 (United
16 States District Court, District of Columbia) and
17 subsequent judicial orders relating thereto.

18 “(2) the term ‘cable service’ has the meaning
19 given that term under section 602.”.

20 **SEC. 482. JURISDICTION.**

21 Section 2(b) of the Communications Act of 1934 (47
22 U.S.C. 153) is amended by striking “section 332” and in-
23 serting in lieu thereof “sections 229, 230, 234, 235, 237,
24 and 332”.

1 **TITLE V—REGULATORY PARITY BETWEEN**
2 **TELEPHONE AND CABLE COMPANIES**

3 **SEC. 501. OWNERSHIP AND CONTROL OF CABLE TELE-**
4 **VISION SYSTEMS AND TELEPHONE COMPA-**
5 **NIES.**

6 Section 613(b) of the Communications Act of 1934
7 (47 U.S.C. 533(b)) is amended to read as follows:

8 “(b)(1)(A) No local exchange carrier, subject in whole
9 or in part to title II of this Act, nor any affiliate of such
10 carrier, owned by, operated by, controlled by, or under
11 common control with such carrier, may—

12 “(i) purchase or otherwise acquire, directly or
13 indirectly, more than a 5 percent financial interest,
14 any management interest, or any other interest, in
15 any cable system that is providing service within the
16 carrier’s telephone exchange service area and is
17 owned by an unaffiliated person; or

18 “(ii) enter into any joint venture or partnership
19 with a cable operator to provide video programming
20 to subscribers within such telephone exchange serv-
21 ice area.

22 “(B) A local exchange carrier shall not provide video
23 programming directly to subscribers in its telephone ex-
24 change service area unless—

1 “(i) such video programming is provided
2 through a separate subsidiary as set forth in section
3 236; and

4 “(ii) the Commission finds that the local ex-
5 change carrier offers service in full compliance with
6 the regulations prescribed under section 230 in the
7 geographic area in which it seeks to provide video
8 programming.

9 “(C) A local exchange carrier that provides video pro-
10 gramming directly to subscribers is a cable operator as
11 defined in section 602.

12 “(D) a local exchange carrier shall not engage in
13 practices prohibited by the Commission or by a State (in-
14 cluding but not limited to the improper assignment of
15 costs) that subsidize directly or indirectly its video pro-
16 gramming operations.

17 “(E) Subparagraphs (A) and (B) shall not apply to
18 a local exchange carrier to the extent that such carrier
19 provides telephone exchange service in an area to which
20 an exemption applies under section 63.58 of title 47, Code
21 of Federal Regulations (as in effect on the date of enact-
22 ment of the Communications Act of 1994).

23 “(F) Upon a showing that a local exchange carrier
24 has no market power in its telephone service area, the

1 Commission shall exempt the carrier from the provisions
2 of subparagraphs (B) and (D).

3 “(2)(A) A cable operator shall not provide tele-
4 communications services directly to subscribers in its cable
5 service area unless such telecommunications services are
6 provided through a separate subsidiary.

7 “(B) No cable operator, nor any affiliate of such
8 cable operator, owned by, operated by, controlled by, or
9 under common ownership with such cable operator, may—

10 “(i) purchase or otherwise acquire, directly or
11 indirectly, more than a 5 percent financial interest,
12 any management interest, or any other interest, in
13 any local exchange carrier that is providing local ex-
14 change service within the cable operator’s service
15 area; or

16 “(ii) enter into any joint venture or partnership
17 with such local exchange carrier, unless—

18 “(I) the joint venture or partnership ad-
19 vances the objectives of local competition by
20 promoting or increasing telecommunications
21 competition over facilities separate from the
22 local exchange carrier’s facilities in the local ex-
23 change carrier’s service area; and

24 “(II) the local exchange carrier’s interest
25 in such competing telecommunications services

1 provider does not retard the competing provid-
2 er's incentives to compete.

3 “(C) A cable operator shall not engage in practices
4 prohibited by the Commission or by a State (including but
5 not limited to the improper assignment of costs) that sub-
6 sidize directly or indirectly its telecommunications serv-
7 ices.

8 “(D) Upon a showing that a cable operator has no
9 market power in its cable service area, the Commission
10 shall exempt the cable operator from the provisions of sub-
11 paragraphs (A), (B), and (C).”.

12 **SEC. 502. CONSUMER AND COMPETITIVE SAFEGUARDS.**

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

16 **“SEC 236. CONSUMER AND COMPETITIVE SAFEGUARDS.**

17 “(a) SEPARATE SUBSIDIARY.—

18 “(1) IN GENERAL.—Any subsidiary required by
19 section 235 or 613(b)(1) shall, at a minimum, be
20 separated from a local exchange carrier, in accord-
21 ance with the requirements of this subsection and
22 the regulations prescribed by the Commission to
23 carry out this subsection.

24 “(2) TRANSACTION REQUIREMENTS.—Any
25 transaction between such a subsidiary and any local

1 exchange carrier and any other affiliate of the car-
2 rier shall not be based upon any preference or dis-
3 crimination in favor of the subsidiary arising out of
4 the subsidiary's affiliation with the carrier.

5 “(3) SEPARATE OPERATION AND PROPERTY.—
6 A subsidiary required by this subsection may not
7 enter into any joint venture activities or partnership
8 with a local exchange carrier or any affiliate of such
9 carrier.

10 “(4) SEPARATE COMMERCIAL ACTIVITIES.—A
11 subsidiary required by this subsection shall carry out
12 its marketing and sales directly and separate from
13 any local exchange carrier or its affiliate.

14 “(5) BOOKS, RECORDS, AND ACCOUNTS.—Any
15 subsidiary required by this subsection shall maintain
16 books, records, and accounts in a manner prescribed
17 by the Commission which shall be separate from the
18 books, records, and accounts maintained by any local
19 exchange carrier or any affiliates of such carrier.

20 “(6) PROVISION OF SERVICES AND INFORMA-
21 TION.—A local exchange carrier may not provide any
22 services or information to a subsidiary required by
23 this subsection unless such services or information
24 are made available to others on the same terms and
25 conditions.

1 “(7) PREVENTION OF CROSS-SUBSIDIES.—Any
2 local exchange carrier required to maintain a sub-
3 subsidiary under this subsection shall establish and ad-
4 minister, in accordance with the requirements of this
5 subsection and the regulations prescribed there-
6 under, a cost allocation system that prohibits any
7 cost of providing competitive services from being
8 subsidized by revenue from telephone exchange serv-
9 ices. The cost allocation system shall employ a for-
10 mula that ensures that—

11 “(A) the rates for telephone exchange serv-
12 ices are no greater than they would have been
13 in the absence of such investment in competi-
14 tive services (taking into account any decline in
15 the real costs of providing such telephone ex-
16 change services); and

17 “(B) competitive services bear a reasonable
18 share of the joint and common costs of facilities
19 used to provide telephone exchange and com-
20 petitive services.

21 “(8) ASSETS.—The Commission shall, by regu-
22 lation, ensure that the economic risks associated
23 with the provision of competitive services by a local
24 exchange carrier or an affiliate thereof (including
25 any increases in the carrier’s cost of capital that

1 occur as a result of the provision of such services)
2 are not borne by customers of telephone exchange
3 services in the event of a business loss or failure. In-
4 vestments or other expenditures assigned to competi-
5 tive services shall not be reassigned to telephone ex-
6 change service or telephone exchange access service.

7 “(9) DEBT.—Any local exchange carrier, which
8 is required to be or is structurally separate from an
9 affiliate engaged in the provision of telephone ex-
10 change services, shall not obtain credit under any ar-
11 rangement that would—

12 “(A) permit a creditor, upon default, to
13 have recourse to the assets of the local ex-
14 change carrier; or

15 “(B) induce a creditor to rely on the tan-
16 gible or intangible assets of the local exchange
17 carrier in extending credit.

18 “(b) DEFINITIONS.—As used in this section, the term
19 ‘affiliate’ means any organization or entity that, directly
20 or indirectly, owns or controls, or is owned or controlled
21 by, or is under common ownership or control with, a local
22 exchange carrier. For purposes of this subsection, the
23 terms ‘own’, ‘owned’, and ‘ownership’ mean a direct or in-
24 direct equity interest (or equivalent thereof) of more than
25 5 percent of an organization or entity, or the right to more

1 than 5 percent of the gross revenues of an organization
 2 or entity under a revenue sharing or royalty agreement,
 3 or any substantial management or financial interest.”.

4 **TITLE VI—CUSTOMER CONTROL OVER**
 5 **INFORMATION**

6 **SEC. 601. CUSTOMER INFORMATION PROTECTIONS.**

7 Title II of the Communications Act of 1934 (47
 8 U.S.C. 201 et seq.), as amended by this Act, is further
 9 amended by adding at the end the following new section:

10 **“SEC. 237. CUSTOMER INFORMATION REQUIREMENTS.**

11 “(a) CUSTOMER PROPRIETARY NETWORK INFORMA-
 12 TION.—A local exchange carrier—

13 “(1) shall not, except as required by law or
 14 upon the affirmative request of the customer to
 15 which the information relates—

16 “(A) use customer proprietary network in-
 17 formation in the providing of any service other
 18 than (i) telephone exchange service or telephone
 19 toll service, or (ii) a service necessary to or used
 20 in the provision of telephone exchange service
 21 or telephone toll service;

22 “(B) use customer proprietary network in-
 23 formation in the identification or solicitation of
 24 potential customers for any service other than

1 the service from which such information is de-
2 rived;

3 “(C) use such information in their provi-
4 sion of customer premises equipment; or

5 “(D) disclose such information to any affil-
6 iate of such common carrier or any other per-
7 son that is not an employee of such carrier;

8 “(2) shall disclose such information, upon af-
9 firmative written request by the customer, to any
10 person designated by the customer;

11 “(3) shall, whenever such common carrier pro-
12 vides any aggregate information based on customer
13 proprietary network information or any data base or
14 other compilation of customer proprietary informa-
15 tion to any personnel of such common carrier, or
16 any affiliate of such common carrier, that are en-
17 gaged in providing any service that is not necessary
18 to the provision of telephone exchange service, or
19 that are engaged in the provision of customer prem-
20 ises equipment, or to any other person that is not
21 an employee or affiliate of such carrier, notify the
22 Commission of the availability of such aggregate or
23 compiled information and shall provide such aggre-
24 gate or compiled information on reasonable terms

1 and conditions to any other service or equipment
2 provider upon reasonable request therefor; and

3 “(4) shall not discriminate between affiliated
4 and unaffiliated service or equipment providers in
5 providing access to, or in the use and disclosure of,
6 individual and aggregate or compiled information
7 made available consistent with this subsection.

8 “(b) RULE OF CONSTRUCTION.—This section shall
9 not be construed to prohibit the disclosure of customer
10 proprietary network information as necessary—

11 “(1) to render, bill, and collect for telephone ex-
12 change service or telephone toll service;

13 “(2) to render, bill, and collect for any other
14 telecommunications service that the customer has re-
15 quested;

16 “(3) to protect the rights or property of the
17 carrier; or

18 “(4) to protect users of any of those services
19 and other carriers from fraudulent, abusive, or un-
20 lawful use of or subscription to such service.

21 “(c) EXEMPTION PERMITTED.—The Commission
22 may, by rule, exempt from the requirements of subsection
23 (a) local exchange carriers that do not have 1,000,000 ag-
24 gregate nationwide lines installed if the Commission deter-
25 mines that such exemption is in the public interest or if

1 compliance with the requirements would impose an undue
2 economic burden on the carrier.

3 “(d) DUTY TO PROVIDE SUBSCRIBER LIST INFORMA-
4 TION.—Notwithstanding subsections (a), (b), and (c), a
5 local exchange carrier that provides subscriber list infor-
6 mation to any affiliated or unaffiliated service provider or
7 person shall provide subscriber list information on a timely
8 and unbundled basis, under nondiscriminatory and reason-
9 able rates, terms, and conditions, to any person upon rea-
10 sonable request.

11 “(e) AUTOMATIC NUMBER IDENTIFICATION SERV-
12 ICES.—

13 “(1) CONTRACT REQUIREMENTS.—Any common
14 carrier or affiliate of a common carrier providing
15 automatic number identification services to any per-
16 son shall provide such services under a contract or
17 tariff containing telephone subscriber information
18 requirements that comply with this subsection. Such
19 requirements shall—

20 “(A) permit such person to use the tele-
21 phone number and billing information provided
22 pursuant to the automatic number identifica-
23 tion service for billing and collection, routing,
24 screening, and completion of the originating
25 telephone subscriber’s call or transaction, or for

1 services directly related to the originating tele-
2 phone subscriber's call or transaction;

3 "(B) prohibit such person from reusing or
4 selling the telephone number or billing informa-
5 tion provided pursuant to the automatic num-
6 ber identification service without first orally (i)
7 notifying the originating telephone subscriber
8 and (ii) extending to such subscriber the option
9 to limit or prohibit such reuse or sale; and

10 "(C) prohibit such person from disclosing,
11 except as permitted by subparagraphs (A) and
12 (B), any information derived from the auto-
13 matic number identification service for any pur-
14 pose other than—

15 "(i) performing the services or trans-
16 actions that are the subject of the originat-
17 ing telephone subscriber's call,

18 "(ii) ensuring network performance,
19 security, and the effectiveness of call deliv-
20 ery,

21 "(iii) compiling, using, and disclosing
22 aggregate information, and

23 "(iv) complying with applicable law or
24 legal process.

1 “(2) EXCEPTION FOR ESTABLISHED CUS-
2 TOMERS.—The customer information requirements
3 imposed under paragraph (1) shall not prevent a
4 person to which automatic number identification
5 services are provided from using—

6 “(A) the telephone number and billing
7 information provided pursuant to such
8 service, and

9 “(B) any information derived from
10 the automatic number identification serv-
11 ice, or from the analysis of the characteris-
12 tics of a telecommunications transmission,
13 to offer, to any telephone subscriber with which such
14 person has an established customer relationship, a
15 product or service that is directly related to the
16 products or service previously acquired by that cus-
17 tomer from such person.

18 “(3) ENFORCEMENT.—(A) Each common car-
19 rier shall receive and transmit to the Commission
20 complaints concerning violations of the telephone
21 subscriber information requirements imposed under
22 paragraph (1). Each common carrier shall submit to
23 the Commission, in such form as the Commission
24 may require by regulation, reports on actions taken
25 by the carrier to comply with this section.

1 “(B) The Commission may, by rule or order, di-
2 rect the termination of automatic number identifica-
3 tion services to any person who has violated the tele-
4 phone subscriber information requirements imposed
5 under paragraph (1). For purposes of section
6 503(b)(1)(B), violations of such requirements shall
7 be considered to be a violation of a provision of this
8 Act.

9 “(4) EFFECTIVE DATE.—(A) Except as pro-
10 vided in subparagraph (B), the requirements of this
11 subsection shall apply to any automatic number
12 identification service provided on or after one year
13 after the date of enactment of this subsection.

14 “(B) In the case of any automatic number iden-
15 tification service provided under a contract entered
16 into, or tariff taking effect, more than 90 days after
17 the date of enactment of this subsection, the require-
18 ments of this subsection shall apply to any auto-
19 matic number identification service provided pursu-
20 ant to such contract or tariff.

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

22 “(1) The term ‘customer proprietary network
23 information’ means—

24 “(A) information which (i) relates to the
25 quantity, technical configuration, type, destina-

1 tion, and amount of use of telephone exchange
2 service or interexchange telephone service sub-
3 scribed to by any customer of a telephone oper-
4 ating company, and (ii) is available to the tele-
5 phone operating company by virtue of the tele-
6 phone company-customer relationship;

7 “(B) information contained in the bills for
8 telephone exchange service or interexchange
9 telephone service received by a customer of a
10 telephone operating company; and

11 “(C) such other information concerning the
12 customer as is (i) available to the telephone op-
13 erating company by virtue of the customer’s use
14 of the company’s services, and (ii) specified as
15 within the definition of such term by such rules
16 as the Commission shall prescribe consistent
17 with the public interest,

18 except that such term does not include subscriber
19 list information.

20 “(2) The term ‘subscriber information’ means
21 any information—

22 “(A) identifying the names of subscribers
23 of a local exchange carrier and such subscrib-
24 ers’ telephone numbers, addresses, or advertis-
25 ing classifications, or any combination of such

1 names, numbers, addresses, or classifications;
2 and

3 “(B) that the carrier or an affiliate has
4 published or accepted for future publication.

5 “(3) The term ‘aggregate information’ means
6 collective data that relates to a group or category of
7 services or customers, from which individual cus-
8 tomer identities or characteristics have been re-
9 moved.

10 “(4) the term ‘automatic number identification’
11 means an access signaling protocol in common use
12 by common carriers that uses an identifying signal
13 associated with the use of a subscriber’s telephone to
14 provide billing information or other information to
15 the local exchange carrier and to any other inter-
16 connecting carriers.

17 “(g) PROCEEDING REQUIRED.—Within 6 months
18 after the date of enactment of this section, the Commis-
19 sion shall commence a proceeding—

20 “(1) to examine the impact of the integration
21 into interconnected communications networks of
22 wireless telephone, cable, satellite, and other tech-
23 nologies on the privacy rights and remedies of the
24 consumers of those technologies;

1 “(2) to examine the impact that the
2 globalization of such integrated communications net-
3 works has on the international dissemination of
4 consumer information and the privacy rights and
5 remedies to protect consumers;

6 “(3) to propose changes in the Commission’s
7 regulations to ensure that the effect on consumer
8 privacy rights is considered in the introduction of
9 new telecommunications services and that the pro-
10 tection of such privacy rights is incorporated as nec-
11 essary in the design of such services or the rules reg-
12 ulating such services;

13 “(4) to propose changes in the Commission’s
14 regulations as necessary to correct any defects iden-
15 tified pursuant to paragraph (1) in such rights and
16 remedies; and

17 “(5) to prepare recommendations to the Con-
18 gress for any legislative changes required to correct
19 such defects.”.

20 **TITLE VII—MEDIA DIVERSITY**

21 **SEC. 701. REMOVAL OF BROADCAST STATION OWNERSHIP**

22 **RESTRICTIONS.**

23 Within one year after the date of enactment of this
24 Act, the Commission shall, after a notice and comment
25 proceeding, modify or remove such national and local own-

1 ership rules on radio and television broadcast stations as
2 are necessary to ensure that broadcasters are able to com-
3 pete fairly with other media providers while ensuring that
4 the public receives information from a diversity of media
5 sources

6 **SEC. 702. REVIEW OF STATUTORY OWNERSHIP RESTRIC-**
7 **TION.**

8 Within one year after the date of enactment of this
9 Act, the Commission shall review the ownership restriction
10 in section 613(a)(1) and report to Congress whether or
11 not such restriction continues to serve the public interest.

12 **703. REVIEW OF VIDEO NON-DUPLICATION AND SYN-**
13 **DICATED EXCLUSIVITY RULES.**

14 Within one year after the date of enactment of this
15 Act, the Commission shall complete a notice and comment
16 proceeding to consider the applicability of the Commis-
17 sion's rules regarding network non-duplication protection
18 and syndicated exclusivity protection to other multi-
19 channel video programming providers.

20 **SEC. 704. BROADCASTER PROVISION OF ADDITIONAL SERV-**
21 **ICES.**

22 The Commission shall, after a notice and comment
23 proceeding, prescribe regulations to permit broadcasters
24 to make use of the broadcast spectrum that they are li-
25 censed to use, for services that are related to the program-

1 ming services which they are authorized to provide. To the
2 extent that the broadcast licensee provides commercial
3 services using broadcast spectrum, the Commission shall
4 be authorized to collect from each licensee an amount
5 equivalent to the amount that would have been paid if the
6 license to provide such service has been subjected to com-
7 petitive bidding under section 309(j) of the Communica-
8 tions Act of 1934 (47 U.S.C. 309(j)). Such amounts shall
9 be collected and distributed pursuant to such section
10 309(j). Nothing shall be construed as relieving a broad-
11 casting station from its obligation to serve the public inter-
12 est, convenience, and necessity.

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