

104TH CONGRESS
1ST SESSION

H. R. 1555

To promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.

IN THE HOUSE OF REPRESENTATIVES

MAY 3, 1995

Mr. BLILEY (for himself, Mr. DINGELL, Mr. FIELDS of Texas, Mr. MOORHEAD, Mr. OXLEY, Mr. BILIRAKIS, Mr. SCHAEFER, Mr. BARTON of Texas, Mr. HASTERT, Mr. STEARNS, Mr. PAXON, Mr. GILLMOR, Mr. KLUG, Mr. GREENWOOD, Mr. CRAPO, Mr. FRISA, Mr. WHITE, Mr. COBURN, Mr. TAUZIN, Mr. HALL of Texas, Mr. BOUCHER, Mr. MANTON, Mr. TOWNS, Ms. ESHOO, and Mrs. LINCOLN) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.

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

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

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Communications Act of 1995”.

4 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—DEVELOPMENT OF COMPETITIVE
TELECOMMUNICATIONS MARKETS

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

“PART II—DEVELOPMENT OF COMPETITIVE MARKETS

“Sec. 241. Interconnection.

“Sec. 242. Equal access and interconnection to the local loop for compet-
ing providers.

“Sec. 243. Preemption.

“Sec. 244. Statements of terms and conditions for access and interconnec-
tion.

“Sec. 245. Bell operating company entry into interLATA services.

“Sec. 246. Universal service.

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ices.

“PART III—SPECIAL AND TEMPORARY PROVISIONS

“Sec. 271. Manufacturing by Bell operating companies.

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“Sec. 229. Forbearance from regulation.

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“Sec. 222. Privacy of customer proprietary network information.

Sec. 105. Pole attachments.

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services.

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Sec. 201. Cable service provided by telephone companies.

“PART V—VIDEO PROGRAMMING SERVICES PROVIDED BY TELEPHONE
COMPANIES

“Sec. 651. Definitions.

“Sec. 652. Separate video programming affiliate.

- “Sec. 653. Establishment of video platform.
- “Sec. 654. Authority to prohibit cross-subsidization.
- “Sec. 655. Prohibition on buy outs.
- “Sec. 656. Applicability of parts I through IV.
- “Sec. 657. Rural area exemption.
- Sec. 202. Competition from cable systems.
- Sec. 203. Competitive availability of navigation devices.
- “Sec. 713. Competitive availability of navigation devices.
- Sec. 204. Video programming accessibility.
- Sec. 205. Technical amendments.

TITLE III—BROADCAST COMMUNICATIONS COMPETITIVENESS

- Sec. 301. Broadcaster spectrum flexibility.
- “Sec. 336. Broadcast spectrum flexibility.
- Sec. 302. Term of licenses.
- Sec. 303. Broadcast license renewal procedures.
- Sec. 304. Exclusive Federal jurisdiction over direct broadcast satellite service.
- Sec. 305. Automated ship distress and safety systems.
- Sec. 306. Restrictions on over-the-air reception devices.
- Sec. 307. DBS signal security.

TITLE IV—EFFECT ON OTHER LAWS

- Sec. 401. Relationship to other laws.
- Sec. 402. Preemption of local taxation with respect to direct-to-home satellite services.

TITLE V—DEFINITIONS

- Sec. 501. Definitions.

1 **TITLE I—DEVELOPMENT OF** 2 **COMPETITIVE TELECOMMUN-** 3 **ICATIONS MARKETS**

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

- 5 (a) AMENDMENT.—Title II of the Communications
- 6 Act of 1934 is amended by inserting after section 229 (47
- 7 U.S.C. 229) the following new part:

1 reasonable, and nondiscriminatory prices and in ac-
2 cordance with subsection (b)(4).

3 “(3) RESALE.—The duty not to prohibit, and
4 not to impose unreasonable or discriminatory condi-
5 tions or limitations on, the resale, on a bundled or
6 unbundled basis, of services, elements, features,
7 functions, and capabilities in conjunction with the
8 furnishing of a telecommunications service or an in-
9 formation service.

10 “(4) NUMBER PORTABILITY.—The duty to pro-
11 vide, to the extent technically feasible and economi-
12 cally reasonable, number portability in accordance
13 with requirements prescribed by the Commission.

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

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

23 “(7) NETWORK FUNCTIONALITY AND ACCES-
24 SIBILITY.—The duty not to install network features,

1 functions, or capabilities that do not comply with the
2 standards established pursuant to section 248.

3 “(8) GOOD FAITH NEGOTIATION.—The duty to
4 negotiate, under the supervision of State commis-
5 sions, the particular terms and conditions of agree-
6 ments to fulfill the duties described in paragraphs
7 (1) through (7).

8 “(b) INTERCONNECTION, COMPENSATION, AND
9 EQUAL ACCESS.—

10 “(1) INTERCONNECTION.—A local exchange
11 carrier shall provide access to and interconnection
12 with the facilities of the carrier’s network at any
13 technically feasible and economically reasonable
14 point within the carrier’s network on just and rea-
15 sonable terms and conditions, to any other carrier or
16 person offering (or seeking to offer) telecommuni-
17 cations services or information services requesting
18 such access.

19 “(2) INTERCARRIER COMPENSATION BETWEEN
20 FACILITIES-BASED CARRIERS.—

21 “(A) IN GENERAL.—For the purposes of
22 paragraph (1), the terms and conditions for
23 interconnection of the network of a competing
24 provider of telephone exchange service shall not

1 be considered to be just and reasonable un-
2 less—

3 “(i) such terms and conditions provide
4 for the mutual and reciprocal recovery by
5 each carrier of costs associated with the
6 termination on such carrier’s network of
7 calls that originate on the network of the
8 other carrier;

9 “(ii) such terms and conditions deter-
10 mine such costs on the basis of a reason-
11 able approximation of the additional costs
12 of terminating such calls; and

13 “(iii) the recovery of costs permitted
14 by such terms and conditions are reason-
15 able in relation to the prices for termi-
16 nation of calls that would prevail in a com-
17 petitive market.

18 “(B) RULES OF CONSTRUCTION.—This
19 paragraph shall not be construed—

20 “(i) to preclude arrangements that af-
21 ford such mutual recovery of costs through
22 the offsetting of reciprocal obligations, in-
23 cluding arrangements that waive mutual
24 recovery (such as bill-and-keep arrange-
25 ments); or

1 “(ii) to authorize the Commission or
2 any State commission to engage in any
3 rate regulation proceeding to establish with
4 particularity the additional costs of termi-
5 nating calls, or to require carriers to main-
6 tain records with respect to the additional
7 costs of terminating calls.

8 “(3) EQUAL ACCESS.—A local exchange carrier
9 shall afford, to any other carrier or person offering
10 (or seeking to offer) a telecommunications service or
11 an information service, reasonable and nondiscrim-
12 inatory access on an unbundled basis—

13 “(A) to databases, signaling systems,
14 poles, ducts, conduits, and rights-of-way owned
15 or controlled by a local exchange carrier, or
16 other facilities, functions, or information (in-
17 cluding subscriber numbers) integral to the effi-
18 cient transmission, routing, or other provision
19 of telephone exchange services or exchange ac-
20 cess;

21 “(B) that is at least equal in type, quality,
22 and price to the access which the carrier affords
23 to itself or to any other person; and

24 “(C) that is sufficient to ensure the full
25 interoperability of the equipment and facilities

1 of the carrier and of the person seeking such
2 access.

3 “(4) COMMISSION ACTION REQUIRED.—

4 “(A) IN GENERAL.—Within 15 months
5 after the date of enactment of this part, the
6 Commission shall complete all actions necessary
7 (including any reconsideration) to establish reg-
8 ulations to implement the requirements of this
9 section. The Commission shall establish such
10 regulations after consultation with the Joint
11 Board established pursuant to section 246.

12 “(B) COLLOCATION.—Such regulations
13 shall provide for actual collocation of equipment
14 necessary for interconnection for telecommuni-
15 cations services at the premises of a local ex-
16 change carrier, except that the regulations shall
17 provide for virtual collocation where the local
18 exchange carrier demonstrates that actual col-
19 location is not practical for technical reasons or
20 because of space limitations.

21 “(C) USER PAYMENT OF UNBUNDLING
22 COSTS.—Such regulations shall require that the
23 costs that a carrier incurs in offering unbundled
24 services, elements, features, functions, and ca-
25 pabilities shall be borne by the users of such

1 services, elements, features, functions, and ca-
2 pabilities.

3 “(D) IMPUTED CHARGES TO CARRIER.—

4 Such regulations shall require the carrier, to
5 the extent it provides a telecommunications
6 service or an information service, to impute
7 such access and interconnection charges to it-
8 self.

9 “(c) NUMBER PORTABILITY AND DIALING PARITY.—

10 “(1) AVAILABILITY.—A local exchange carrier
11 shall ensure that—

12 “(A) number portability shall be available
13 on request in accordance with subsection (a)(4);
14 and

15 “(B) dialing parity shall be available upon
16 request, except that, in the case of a Bell oper-
17 ating company, such company shall ensure that
18 dialing parity for intraLATA telephone toll
19 service shall be available not later than the date
20 such company is authorized to provide
21 interLATA services.

22 “(2) NUMBER ADMINISTRATION.—The Commis-
23 sion shall designate an impartial entity to administer
24 telecommunications numbering and to make such
25 numbers available on an equitable basis. The Com-

1 mission shall have exclusive jurisdiction over those
2 portions of the North American Numbering Plan
3 that pertain to the United States. Nothing in this
4 paragraph shall preclude the Commission from dele-
5 gating to State commissions or other entities any
6 portion of such jurisdiction.

7 “(d) MODIFICATIONS AND WAIVERS.—The Commis-
8 sion may modify or waive the requirements of this section
9 for any local exchange carrier (or class or category of such
10 carriers) that has, in the aggregate nationwide, fewer than
11 500,000 access lines installed, to the extent that the Com-
12 mission determines that compliance with such require-
13 ments (without such modification) would be unduly eco-
14 nomically burdensome, technologically infeasible, or other-
15 wise not in the public interest.

16 “(e) AVOIDANCE OF REDUNDANT REGULATIONS.—
17 Nothing in this section shall be construed to prohibit the
18 Commission from enforcing regulations prescribed prior to
19 the date of enactment of this part in fulfilling the require-
20 ments of this section, to the extent that such regulations
21 are consistent with the provisions of this section.

22 **“SEC. 243. PREEMPTION.**

23 “(a) REMOVAL OF BARRIERS TO ENTRY.—Except as
24 provided in subsection (b) of this section, no State or local
25 statute, regulation, or other legal requirement shall—

1 “(1) effectively prohibit any carrier or other
2 person from entering the business of providing inter-
3 state or intrastate telecommunications services or in-
4 formation services; or

5 “(2) effectively prohibit any carrier or other
6 person providing interstate or intrastate tele-
7 communications services or information services
8 from exercising the access and interconnection rights
9 provided under this part.

10 “(b) STATE AND LOCAL AUTHORITY.—Nothing in
11 this section shall affect the ability of State or local officials
12 to impose, on a nondiscriminatory basis, requirements nec-
13 essary to preserve and advance universal service, protect
14 the public safety and welfare, ensure the continued quality
15 of telecommunications services, ensure that a provider’s
16 business practices are consistent with consumer protection
17 laws and regulations, and ensure just and reasonable
18 rates, provided that such requirements do not effectively
19 prohibit any carrier or person from providing interstate
20 or intrastate telecommunications services or information
21 services.

22 “(c) CONSTRUCTION PERMITS.—Subsection (a) shall
23 not be construed to prohibit a local government from re-
24 quiring a person or carrier to obtain ordinary and usual
25 construction or similar permits for its operations if—

1 “(1) such permit is required without regard to
2 the nature of the business; and

3 “(2) requiring such permit does not effectively
4 prohibit any person or carrier from providing any
5 interstate or intrastate telecommunications service
6 or information service.

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

10 “(e) PARITY OF FRANCHISE AND OTHER
11 CHARGES.—Notwithstanding section 2(b), no local gov-
12 ernment may impose or collect any franchise, license, per-
13 mit, or right-of-way fee or any assessment, rental, or any
14 other charge or equivalent thereof as a condition for oper-
15 ating in the locality or for obtaining access to, occupying,
16 or crossing public rights-of-way from any provider of tele-
17 communications services that distinguishes between or
18 among providers of telecommunications services, including
19 the local exchange carrier. For purposes of this subsection,
20 a franchise, license, permit, or right-of-way fee or an as-
21 sessment, rental, or any other charge or equivalent thereof
22 does not include any imposition of general applicability
23 which does not distinguish between or among providers of
24 telecommunications services, or any tax.

1 **“SEC. 244. STATEMENTS OF TERMS AND CONDITIONS FOR**
2 **ACCESS AND INTERCONNECTION.**

3 “(a) IN GENERAL.—Within 18 months after the date
4 of enactment of this part, and from time to time there-
5 after, a local exchange carrier shall prepare and file with
6 a State commission statements of the terms and condi-
7 tions that such carrier generally offers within that State
8 with respect to the services or elements provided to comply
9 with the equal access and interconnection requirements of
10 section 242 and the regulations thereunder. Any such
11 statement pertaining to the charges for interstate services
12 or elements shall be filed with the Commission.

13 “(b) REVIEW.—

14 “(1) STATE COMMISSION REVIEW.—A State
15 commission to which a statement is submitted under
16 subsection (a) shall review such statement in accord-
17 ance with State law. A State commission may not
18 approve such statement unless such statement com-
19 plies with section 242 and the regulations there-
20 under. Except as provided in section 243, nothing in
21 this section shall prohibit a State commission from
22 establishing or enforcing other requirements of State
23 law in its review of such statement.

24 “(2) FCC REVIEW.—The Commission shall re-
25 view such statements to ensure that—

1 “(A) the charges for interstate services or
2 elements are just, reasonable, and nondiscrim-
3 inatory; and

4 “(B) the terms and conditions for such
5 interstate services or elements unbundle any
6 separable services, elements, features, functions,
7 or capabilities in accordance with section
8 242(a)(2) and any regulations thereunder.

9 “(c) TIME FOR REVIEW.—

10 “(1) SCHEDULE FOR REVIEW.—The Commis-
11 sion and the State commission to which a statement
12 is submitted shall, not later than 60 days after the
13 date of such submission—

14 “(A) complete the review of such statement
15 under subsection (b) (including any reconsider-
16 ation thereof), unless the submitting carrier
17 agrees to an extension of the period for such re-
18 view; or

19 “(B) permit such statement to take effect.

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

1 “(d) EFFECT OF AGREEMENTS.—Nothing in this sec-
2 tion shall prohibit a carrier from filing an agreement to
3 provide services or elements affording access and inter-
4 connection as a statement of terms and conditions that
5 the carrier generally offers for purposes of this section.
6 The approval of a statement under this section shall not
7 operate to prohibit a carrier from entering into subsequent
8 agreements that contain terms and conditions that differ
9 from those contained in a statement that has been re-
10 viewed and approved under this section, but—

11 “(1) each such subsequent agreement shall be
12 filed under this section; and

13 “(2) such carrier shall be obligated to offer ac-
14 cess to such services and elements to other carriers
15 and persons (including carriers and persons covered
16 by previously approved statements) requesting such
17 access on terms and conditions that, in relation to
18 the terms and conditions in such subsequent agree-
19 ments, are not discriminatory.

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

1 **“SEC. 245. BELL OPERATING COMPANY ENTRY INTO**
2 **INTERLATA SERVICES.**

3 “(a) VERIFICATION OF ACCESS AND INTERCONNEC-
4 TION COMPLIANCE.—At any time after 18 months after
5 the date of enactment of this part, a Bell operating com-
6 pany may provide to the Commission verification by such
7 company with respect to one or more States that such
8 company is in compliance with the requirements of this
9 part. Such verification shall contain the following:

10 “(1) CERTIFICATION.—A certification by each
11 State commission of such State or States that such
12 carrier is in compliance with the standards described
13 in subsection (b), except as provided in subsection
14 (c)(2).

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

17 “(A) PRESENCE OF A FACILITIES-BASED
18 COMPETITOR.—An agreement that has been ap-
19 proved under section 243 specifying the terms
20 and conditions under which the Bell operating
21 company is providing access and interconnec-
22 tion to its network in accordance with section
23 242 for the network of a competing provider of
24 telephone exchange service.

25 “(B) FAILURE TO REQUEST ACCESS.—If
26 no such provider has requested such access and

1 interconnection before the date which is 3
2 months before the date the company makes its
3 submission under this subsection, a statement
4 of the terms and conditions that the carrier
5 generally offers to provide such access and
6 interconnection that has been approved or per-
7 mitted to take effect by the State commission
8 under section 243.

9 “(b) CERTIFICATION OF COMPLIANCE WITH PART
10 II.—For the purposes of subsection (a)(1), a Bell operat-
11 ing company shall submit to the Commission a certifi-
12 cation by a State commission of compliance with each of
13 the following conditions in such State:

14 “(1) INTERCONNECTION.—The Bell operating
15 company provides access and interconnection in ac-
16 cordance with subsections (a)(1) and (b) of section
17 242 to any other carrier or person offering tele-
18 communications services requesting such access and
19 interconnection, and complies with the Commission
20 regulations pursuant to such section concerning such
21 access and interconnection.

22 “(2) UNBUNDLING OF NETWORK ELEMENTS.—
23 The Bell operating company provides unbundled fea-
24 tures, functions, and capabilities in accordance with
25 subsection (a)(2) of section 242 and the regulations

1 prescribed by the Commission pursuant to such sec-
2 tion.

3 “(3) RESALE AND SHARING.—Neither the Bell
4 operating company, nor any unit of State or local
5 government within the State, imposes any restric-
6 tions on resale or sharing of telephone exchange
7 service (or unbundled services, elements, features, or
8 functions of telephone exchange service) in violation
9 of section 242(a)(3).

10 “(4) NUMBER PORTABILITY.—The Bell operat-
11 ing company provides number portability in compli-
12 ance with the Commission’s regulations pursuant to
13 subsections (a)(4) and (c) of section 242.

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

22 “(6) ACCESS TO CONDUITS AND RIGHTS OF
23 WAY.—The poles, ducts, conduits, and rights of way
24 of such Bell operating company are available to com-
25 peting providers of telecommunications services in

1 accordance with the requirements of sections
2 242(a)(6) and 224(d).

3 “(7) ELIMINATION OF FRANCHISE LIMITA-
4 TIONS.—No unit of the State or local government in
5 such State or States imposes any prohibition or limi-
6 tation in violation of section 243.

7 “(8) NETWORK FUNCTIONALITY AND ACCES-
8 SIBILITY.—The Bell operating company will not in-
9 stall network features, functions, or capabilities that
10 do not comply with the standards established pursu-
11 ant to section 248.

12 “(9) NEGOTIATION OF TERMS AND CONDI-
13 TIONS.—The Bell operating company has negotiated
14 in good faith, under the supervision of the State
15 commission, in accordance with the requirements of
16 section 242(a)(8) with any person requesting access
17 or interconnection.

18 “(c) COMMISSION REVIEW.—

19 “(1) REVIEW OF STATE DECISIONS AND CER-
20 TIFICATIONS.—The Commission shall review any
21 verification submitted by a Bell operating company
22 pursuant to subsection (a). The Commission may re-
23 quire such company to submit such additional infor-
24 mation as is necessary to validate any of the items
25 of such verification.

1 “(2) DE NOVO REVIEW.—If—

2 “(A) a State commission does not have the
3 jurisdiction or authority to make the certifi-
4 cation required by subsection (b);

5 “(B) the State commission has failed to
6 act within 90 days after the date a request for
7 such certification is filed with such State com-
8 mission; or

9 “(C) the State commission has sought to
10 impose a term or condition in violation of sec-
11 tion 243;

12 the local exchange carrier may request the Commis-
13 sion to certify the carrier’s compliance with the con-
14 ditions specified in subsection (b).

15 “(3) TIME FOR DECISION; PUBLIC COMMENT.—
16 Unless such Bell operating company consents to a
17 longer period of time, the Commission shall approve,
18 disapprove, or approve with conditions such verifica-
19 tion within 90 days after the date of its submission.
20 During such 90 days, the Commission shall afford
21 interested persons an opportunity to present infor-
22 mation and evidence concerning such verification.

23 “(4) STANDARD FOR DECISION.—The Commis-
24 sion shall not approve such verification unless the
25 Commission determines that—

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

4 “(B) the agreement or statement submit-
5 ted under subsection (a)(2) complies with the
6 requirements of section 242 and the regulations
7 thereunder.

8 “(d) ENFORCEMENT OF CONDITIONS.—

9 “(1) COMMISSION AUTHORITY.—If at any time
10 after the approval of a verification under subsection
11 (c), the Commission determines that a Bell operat-
12 ing company has ceased to meet any of the condi-
13 tions required to be certified under subsection (b),
14 the Commission may, after notice and opportunity
15 for a hearing—

16 “(A) issue an order to such company to
17 correct the deficiency;

18 “(B) impose a penalty on such company
19 pursuant to title V; or

20 “(C) suspend or revoke such approval.

21 “(2) RECEIPT AND REVIEW OF COMPLAINTS.—

22 The Commission shall establish procedures for the
23 review of complaints concerning failures by Bell op-
24 erating companies to meet conditions required to be
25 certified under subsection (b). Unless the parties

1 otherwise agree, the Commission shall act on such
2 complaint within 90 days.

3 “(3) STATE AUTHORITY.—The authority of the
4 Commission under this subsection shall not be con-
5 strued to preempt any State commission from taking
6 actions to enforce the conditions required to be cer-
7 tified under subsection (b).

8 “(e) AUTHORITY TO PROVIDE INTERLATA SERV-
9 ICES.—

10 “(1) PROHIBITION.—Except as provided in
11 paragraph (2) and subsection (f), a Bell operating
12 company may not provide interLATA services.

13 “(2) AUTHORITY SUBJECT TO CERTIFI-
14 CATION.—A Bell operating company may, in any
15 States to which its verification under subsection (a)
16 applies, provide interLATA services—

17 “(A) during any period after the effective
18 date of the Commission’s approval of such ver-
19 ification pursuant to subsection (c), and

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

23 “(f) EXCEPTIONS FOR INCIDENTAL SERVICES.—Sub-
24 section (e) shall not prohibit a Bell operating company,

1 at any time after the date of the enactment of this part,
2 from providing interLATA services for the purpose of—

3 “(1)(A) providing audio programming, video
4 programming, or other programming services to sub-
5 scribers to such services of such company;

6 “(B) providing the capability for interaction by
7 such subscribers to select or respond to such audio
8 programming, video programming, or other pro-
9 gramming services; or

10 “(C) providing to distributors audio program-
11 ming or video programming that such company owns
12 or controls, or is licensed by the copyright owner of
13 such programming (or by an assignee of such owner)
14 to distribute;

15 “(2) providing a telecommunications service,
16 using the transmission facilities of a cable system
17 that is an affiliate of such company, between local
18 access and transport areas within a cable system
19 franchise area in which such company is not, on the
20 date of the enactment of this Act, a provider of
21 wireline telephone exchange service;

22 “(3) providing commercial mobile services in ac-
23 cordance with section 332(c) of this Act and with
24 the regulations prescribed by the Commission pursu-
25 ant to paragraph (7) of such section;

1 “(4) providing a service that permits a cus-
2 tomer that is located in one local access and trans-
3 port area to retrieve stored information from, or file
4 information for storage in, information storage fa-
5 cilities of such company that are located in another
6 local access and transport area;

7 “(5) providing signaling information used in
8 connection with the provision of telephone exchange
9 services to a local exchange carrier that, together
10 with any affiliated local exchange carriers, has ag-
11 gregate annual revenues of less than \$100,000,000;
12 or

13 “(6) providing network control signaling infor-
14 mation to, and receiving such signaling information
15 from, common carriers offering interLATA services
16 at any location within the area in which such Bell
17 operating company provides telephone exchange
18 services or exchange access.

19 “(g) FORBEARANCE.—The Commission may not,
20 pursuant to section 229, forbear from applying any provi-
21 sion of this section or any regulation thereunder until at
22 least 5 years after the date of enactment of this part.

23 “(h) SUNSET.—The provisions of this section shall
24 cease to apply in any local exchange market, defined by
25 geographic area and class or category of service, that the

1 Commission determines has become subject to full and
2 open competition.

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

4 “(1) AUDIO PROGRAMMING.—The term ‘audio
5 programming’ means programming provided by, or
6 generally considered comparable to programming
7 provided by, a radio broadcast station.

8 “(2) VIDEO PROGRAMMING.—The term ‘video
9 programming’ has the meaning provided in section
10 602.

11 “(3) OTHER PROGRAMMING SERVICES.—The
12 term ‘other programming services’ means informa-
13 tion (other than audio programming or video pro-
14 gramming) that the person who offers a video pro-
15 gramming service makes available to all subscribers
16 generally. For purposes of the preceding sentence,
17 the terms ‘information’ and ‘makes available to all
18 subscribers generally’ have the same meaning such
19 terms have under section 602(13) of this Act.

20 **“SEC. 246. UNIVERSAL SERVICE.**

21 “(a) JOINT BOARD TO PRESERVE UNIVERSAL SERV-
22 ICE.—Within 30 days after the date of enactment of this
23 part, the Commission shall convene a Federal-State Joint
24 Board under section 410(c) for the purpose of rec-
25 ommending actions to the Commission and State commis-

1 sions for the preservation of universal service in further-
2 ance of the purposes set forth in section 1 of this Act.
3 In addition to the members required under section 410(c),
4 one member of the Joint Board shall be a State-appointed
5 utility consumer advocate nominated by a national organi-
6 zation of State utility consumer advocates.

7 “(b) PRINCIPLES.—The Joint Board shall base poli-
8 cies for the preservation of universal service on the follow-
9 ing principles:

10 “(1) JUST AND REASONABLE RATES.—A plan
11 adopted by the Commission and the States should
12 ensure the continued viability of universal service by
13 maintaining quality services at just and reasonable
14 rates.

15 “(2) DEFINITIONS OF INCLUDED SERVICES;
16 COMPARABILITY IN URBAN AND RURAL AREAS.—
17 Such plan should recommend a definition of the na-
18 ture and extent of the services encompassed within
19 carriers’ universal service obligations. Such plan
20 should seek to promote access to advanced tele-
21 communications services and capabilities, and to
22 promote reasonably comparable services for the gen-
23 eral public in urban and rural areas, while maintain-
24 ing just and reasonable rates.

1 “(3) ADEQUATE AND SUSTAINABLE SUPPORT
2 MECHANISMS.—Such plan should recommend spe-
3 cific and predictable mechanisms to provide ade-
4 quate and sustainable support for universal service.

5 “(4) EQUITABLE AND NONDISCRIMINATORY
6 CONTRIBUTIONS.—All providers of telecommuni-
7 cations services should make an equitable and non-
8 discriminatory contribution to the preservation of
9 universal service.

10 “(5) EDUCATIONAL ACCESS TO ADVANCED
11 TELECOMMUNICATIONS SERVICES.—To the extent
12 that a common carrier establishes advanced tele-
13 communications services, such plan should include
14 recommendations to ensure access to advanced tele-
15 communications services for students in elementary
16 and secondary schools.

17 “(6) ADDITIONAL PRINCIPLES.—Such other
18 principles as the Board determines are necessary
19 and appropriate for the protection of the public in-
20 terest, convenience, and necessity and consistent
21 with the purposes of this Act.

22 “(c) DEFINITION OF UNIVERSAL SERVICE.—In rec-
23 ommending a definition of the nature and extent of the
24 services encompassed within carriers’ universal service ob-

1 ligations under subsection (b)(2), the Joint Board shall
2 consider the extent to which—

3 “(1) a telecommunications service has, through
4 the operation of market choices by customers, been
5 subscribed to by a substantial majority of residential
6 customers;

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

9 “(3) such service has been deployed in the pub-
10 lic switched telecommunications network; and

11 “(4) inclusion of such service within carriers’
12 universal service obligations is otherwise consistent
13 with the public interest, convenience, and necessity.

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

17 “(d) REPORT; COMMISSION RESPONSE.—The Joint
18 Board convened pursuant to subsection (a) shall report
19 its recommendations within 270 days after the date of en-
20 actment of this part. The Commission shall complete any
21 proceeding to act upon such recommendations and to com-
22 ply with the principles set forth in subsection (b) within
23 one year after such date of enactment.

24 “(e) STATE AUTHORITY.—Nothing in this section
25 shall be construed to restrict the authority of any State

1 to adopt regulations imposing universal service obligations
2 on the provisions of intrastate telecommunications serv-
3 ices.

4 “(f) SUNSET.—The Joint Board established by this
5 section shall cease to exist 5 years after the date of enact-
6 ment of this part.

7 **“SEC. 247. PRICING FLEXIBILITY AND ABOLITION OF RATE-**
8 **OF-RETURN REGULATION.**

9 “(a) PRICING FLEXIBILITY.—

10 “(1) COMMISSION CRITERIA.—Within 270 days
11 after the date of enactment of this part, the Com-
12 mission shall complete all actions necessary (includ-
13 ing any reconsideration) to establish—

14 “(A) criteria for determining whether a
15 telecommunications service or provider of such
16 service has become, or is substantially certain
17 to become, subject to competition, either within
18 a geographic area or within a class or category
19 of service; and

20 “(B) appropriate flexible pricing proce-
21 dures that afford a regulated provider of a serv-
22 ice described in subparagraph (A) the oppor-
23 tunity to respond fairly to such competition and
24 that are consistent with the protection of sub-

1 scribers and the public interest, convenience,
2 and necessity.

3 “(2) STATE SELECTION.—A State commission
4 may utilize the flexible pricing procedures or proce-
5 dures (established under paragraph (1)(B)) that are
6 appropriate in light of the criteria established under
7 paragraph (1)(A).

8 “(3) DETERMINATIONS.—The Commission,
9 with respect to rates for interstate or foreign com-
10 munications, and State commissions, with respect to
11 rates for intrastate communications, shall, upon ap-
12 plication—

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

17 “(B) upon a proper showing, implement
18 appropriate flexible pricing procedures consist-
19 ent with paragraphs (1)(B) and (2) with re-
20 spect to such services or providers.

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

24 “(b) ABOLITION OF RATE-OF-RETURN REGULA-
25 TION.—Notwithstanding any other provision of law, to the

1 extent that a carrier has complied with sections 242 and
2 244 of this part, the Commission, with respect to rates
3 for interstate or foreign communications, and State com-
4 missions, with respect to rates for intrastate communica-
5 tions, shall not require rate-of-return regulation.

6 “(c) TERMINATION OF PRICE REGULATION.—Not-
7 withstanding any other provision of law, to the extent that
8 a carrier has complied with sections 242 and 244 of this
9 part, the Commission, with respect to rates for interstate
10 or foreign communications, and State commissions, with
11 respect to rates for intrastate communications, shall not
12 regulate prices for services that are determined, in accord-
13 ance with the criteria established under subsection
14 (a)(1)(A), to be subject to competition that effectively pre-
15 vents rates for such services that are unjust or unreason-
16 able or unjustly or unreasonably discriminatory.

17 “(d) ABILITY TO CONTINUE AFFORDABLE VOICE-
18 GRADE SERVICE.—Notwithstanding subsections (a), (b),
19 and (c), each State commission shall permit residential
20 subscribers to continue to receive only basic voice-grade
21 local telephone service equivalent to the service generally
22 available to residential subscribers on the date of enact-
23 ment of this part, at just, reasonable, and affordable rates.
24 Determinations concerning the affordability of rates for
25 such services shall, for a period of 3 years after the effec-

1 tive date of any flexible pricing procedure established
2 under this section, be based on the rates generally avail-
3 able to residential subscribers on such date of enactment
4 and the pricing rules established by the State commission.

5 “(e) EXCEPTION.—In the case of commercial mobile
6 services, the provisions of section 332(c)(1) shall apply in
7 lieu of the provisions of this section.

8 “(f) AVOIDANCE OF REDUNDANT REGULATIONS.—
9 Nothing in this section shall be construed to prohibit the
10 Commission or a State commission from enforcing regula-
11 tions prescribed prior to the date of enactment of this part
12 in fulfilling the requirements of this section, to the extent
13 that such regulations are consistent with the provisions
14 of this section.

15 **“SEC. 248. NETWORK FUNCTIONALITY AND ACCESSIBILITY.**

16 “(a) FUNCTIONALITY AND ACCESSIBILITY.—The
17 duty of a common carrier under section 201(a) to furnish
18 communications service includes the duty to furnish that
19 service in accordance with the standards established pur-
20 suant to this section.

21 “(b) COORDINATION FOR INTEROPERABILITY AND
22 ACCESSIBILITY.—The Commission shall establish—

23 “(1) procedures for the conduct of coordinated
24 network planning by common carriers and other pro-
25 viders of telecommunications services or information

1 services, subject to Commission supervision, for the
2 effective and efficient interconnection and interoper-
3 ability of public and private networks; and

4 “(2) procedures for Commission oversight of
5 the development by appropriate industry standards-
6 setting organizations of—

7 “(A) standards for the interconnection and
8 interoperability of such networks;

9 “(B) standards that promote access to net-
10 work capabilities and services by individuals
11 with disabilities; and

12 “(C) standards that promote access to in-
13 formation services by subscribers to telephone
14 exchange service furnished by a rural telephone
15 company.

16 “(c) ACCESSIBILITY FOR INDIVIDUALS WITH DIS-
17 ABILITIES.—

18 “(1) ACCESSIBILITY.—Within 1 year after the
19 date of enactment of this section, the Commission
20 shall prescribe such regulations as are necessary to
21 ensure that advances in network services deployed by
22 local exchange carriers shall be accessible and usable
23 by individuals with disabilities, including individuals
24 with functional limitations of hearing, vision, move-
25 ment, manipulation, speech, and interpretation of in-

1 formation, unless the cost of making the services ac-
2 cessible and usable would result in an undue burden
3 or adverse competitive impact. Such regulations
4 shall seek to permit the use of both standard and
5 special equipment, and seek to minimize the need of
6 individuals to acquire additional devices beyond
7 those used by the general public to obtain such ac-
8 cess. Throughout the process of developing such reg-
9 ulations, the Commission shall coordinate and con-
10 sult with representatives of individuals with disabil-
11 ities and interested equipment and service providers
12 to ensure their concerns and interests are given full
13 consideration in such process.

14 “(2) COMPATIBILITY.—Such regulations shall
15 require that whenever an undue burden or adverse
16 competitive impact would result from the require-
17 ments in paragraph (1), the local exchange carrier
18 that deploys the network service shall ensure that
19 the network service in question is compatible with
20 existing peripheral devices or specialized customer
21 premises equipment commonly used by persons with
22 disabilities to achieve access, unless doing so would
23 result in an undue burden or adverse competitive im-
24 pact.

1 “(3) UNDUE BURDEN.—The term ‘undue bur-
2 den’ means significant difficulty or expense. In de-
3 termining whether the activity necessary to comply
4 with the requirements of this subsection would result
5 in an undue burden, the factors to be considered in-
6 clude the following:

7 “(A) The nature and cost of the activity.

8 “(B) The impact on the operation of the
9 facility involved in the deployment of the net-
10 work service.

11 “(C) The financial resources of the local
12 exchange carrier.

13 “(D) The type of operations of the local
14 exchange carrier.

15 “(4) ADVERSE COMPETITIVE IMPACT.—In de-
16 termining whether the activity necessary to comply
17 with the requirements of this subsection would result
18 in adverse competitive impact, the following factors
19 shall be considered:

20 “(A) Whether such activity would raise the
21 cost of the network service in question beyond
22 the level at which there would be sufficient
23 consumer demand by the general population to
24 make the network service profitable.

1 and access to advanced services has been facilitated
2 pursuant to this part and the plans and regulations
3 thereunder;

4 “(2) evaluates the extent to which access to ad-
5 vanced telecommunications services for students in
6 elementary and secondary school classrooms has
7 been attained pursuant to section 246(b)(5); and

8 “(3) determines whether the regulations estab-
9 lished under section 248(c) have ensured that ad-
10 vances in network services by providers of tele-
11 communications services and information services
12 are accessible and usable by individuals with disabil-
13 ities.

14 **“SEC. 251. TERRITORIAL EXEMPTION.**

15 “Until 5 years after the date of enactment of this
16 part, the provisions of this part shall not apply to any local
17 exchange carrier in any United States territory if (1) the
18 local exchange carrier is owned by the government of such
19 territory, and (2) on the date of enactment of this Act,
20 the number of households subscribing to telephone service
21 is less than 85 percent of the total households located in
22 such territory.”.

23 (b) CONSOLIDATED RULEMAKING PROCEEDING.—
24 The Commission shall conduct a single consolidated rule-

1 making proceeding to prescribe or amend regulations nec-
2 essary to implement the requirements of—

3 (1) part II of title II of the Communications
4 Act of 1934 as added by subsection (a) of this sec-
5 tion;

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

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

10 (c) DESIGNATION OF PART I.—Title II of the Act
11 is further amended by inserting before the heading of sec-
12 tion 201 the following new heading:

13 “PART I—REGULATION OF DOMINANT COMMON
14 CARRIERS”.

15 (d) CONFORMING AMENDMENTS.

16 (1) FEDERAL-STATE JURISDICTION.—Section
17 2(b) of the Communications Act of 1934 (47 U.S.C.
18 152(b)) is amended by inserting “part II of title II,”
19 after “227, inclusive,”.

20 (2) FORFEITURES.—Sections 503(b)(1) and
21 504(b) of such Act (47 U.S.C. 503(b)) are each
22 amended by inserting “part I of” before “title II”.

1 **SEC. 103. COMPETITION IN MANUFACTURING, INFORMA-**
2 **TION SERVICES, AND ALARM SERVICES.**

3 (a) COMPETITION IN MANUFACTURING, INFORMA-
4 TION SERVICES, AND ALARM SERVICES.—Title II of the
5 Act is amended by adding at the end of part II (as added
6 by section 101) the following new part:

7 **“PART III—SPECIAL AND TEMPORARY**
8 **PROVISIONS**

9 **“SEC. 271. MANUFACTURING BY BELL OPERATING COMPA-**
10 **NIES.**

11 “(a) ACCESS AND INTERCONNECTION.—It shall be
12 unlawful for a Bell operating company, directly or through
13 an affiliate, to manufacture or provide telecommunications
14 equipment, or to manufacture customer premises equip-
15 ment, until the Commission has approved under section
16 245(c) verifications that such Bell operating company, and
17 each Bell operating company with which it is affiliated,
18 are in compliance with the access and interconnection re-
19 quirements of part II of this title.

20 “(b) COLLABORATION.—Nothing in this section
21 (other than subsection (f)) shall be construed to limit or
22 restrict the ability of a Bell operating company and its
23 affiliates to engage in close collaboration with any manu-
24 facturer of customer premises equipment or telecommuni-
25 cations equipment during the design and development of

1 hardware, software, or combinations thereof related to
2 such equipment.

3 “(c) EXISTING MANUFACTURING AUTHORITY.—
4 Nothing in this section shall prohibit any Bell operating
5 company from engaging, directly or through any affiliate,
6 in any manufacturing activity in which any Bell operating
7 company or affiliate was authorized to engage on the date
8 of enactment of this section.

9 “(d) INFORMATION REQUIREMENTS.—

10 “(1) INFORMATION ON PROTOCOLS AND TECH-
11 NICAL REQUIREMENTS.—Each Bell operating com-
12 pany shall, in accordance with regulations prescribed
13 by the Commission, maintain and file with the Com-
14 mission full and complete information with respect
15 to the protocols and technical requirements for con-
16 nection with and use of its telephone exchange serv-
17 ice facilities. Each such company shall report
18 promptly to the Commission any material changes or
19 planned changes to such protocols and requirements,
20 and the schedule for implementation of such changes
21 or planned changes.

22 “(2) DISCLOSURE TO AFFILIATES.—A Bell op-
23 erating company shall not disclose to any of its af-
24 filiates any information required to be filed under
25 paragraph (1) unless that information is filed

1 promptly, as required by regulation by the Commis-
2 sion.

3 “(3) ACCESS BY COMPETITORS TO INFORMA-
4 TION.—The Commission may prescribe such addi-
5 tional regulations under this subsection as may be
6 necessary to ensure that manufacturers in competi-
7 tion with a Bell operating company’s manufacturing
8 affiliate have access to the information with respect
9 to the protocols and technical requirements for con-
10 nection with and use of its telephone exchange serv-
11 ice facilities required for such competition that such
12 company makes available to its manufacturing affili-
13 ate.

14 “(4) PLANNING INFORMATION.—Each Bell op-
15 erating company shall provide, to contiguous com-
16 mon carriers providing telephone exchange service,
17 timely information on the planned deployment of
18 telecommunications equipment.

19 “(e) ADMINISTRATION AND ENFORCEMENT AUTHOR-
20 ITY.—For the purposes of administering and enforcing the
21 provisions of this section and the regulations prescribed
22 thereunder, the Commission shall have the same authority,
23 power, and functions with respect to any Bell operating
24 company or any affiliate thereof as the Commission has

1 in administering and enforcing the provisions of this title
2 with respect to any common carrier subject to this Act.

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

6 “(g) DEFINITION.—As used in this section, the term
7 ‘manufacturing’ has the same meaning as such term has
8 under the Modification of Final Judgment.

9 **“SEC. 272. ELECTRONIC PUBLISHING BY BELL OPERATING**
10 **COMPANIES.**

11 “(a) LIMITATIONS.—No Bell operating company or
12 any affiliate may engage in the provision of electronic pub-
13 lishing that is disseminated by means of such Bell operat-
14 ing company’s or any of its affiliates’ basic telephone serv-
15 ice, except that nothing in this section shall prohibit a sep-
16 arated affiliate or electronic publishing joint venture oper-
17 ated in accordance with this section from engaging in the
18 provision of electronic publishing.

19 “(b) SEPARATED AFFILIATE OR ELECTRONIC PUB-
20 LISHING JOINT VENTURE REQUIREMENTS.—A separated
21 affiliate or electronic publishing joint venture shall be op-
22 erated independently from the Bell operating company.
23 Such separated affiliate or joint venture and the Bell oper-
24 ating company with which it is affiliated shall—

1 “(1) maintain separate books, records, and ac-
2 counts and prepare separate financial statements;

3 “(2) not incur debt in a manner that would per-
4 mit a creditor of the separated affiliate or joint ven-
5 ture upon default to have recourse to the assets of
6 the Bell operating company;

7 “(3) carry out transactions (A) in a manner
8 consistent with such independence, (B) pursuant to
9 written contracts or tariffs that are filed with the
10 Commission and made publicly available, and (C) in
11 a manner that is auditable in accordance with gen-
12 erally accepted auditing standards;

13 “(4) value any assets that are transferred di-
14 rectly or indirectly from the Bell operating company
15 to a separated affiliate or joint venture, and record
16 any transactions by which such assets are trans-
17 ferred, in accordance with such regulations as may
18 be prescribed by the Commission or a State commis-
19 sion to prevent improper cross subsidies;

20 “(5) between a separated affiliate and a Bell
21 operating company—

22 “(A) have no officers, directors, and em-
23 ployees in common after the effective date of
24 this section; and

25 “(B) own no property in common;

1 “(6) not use for the marketing of any product
2 or service of the separated affiliate or joint venture,
3 the name, trademarks, or service marks of an exist-
4 ing Bell operating company except for names, trade-
5 marks, or service marks that are or were used in
6 common with the entity that owns or controls the
7 Bell operating company;

8 “(7) not permit the Bell operating company—

9 “(A) to perform hiring or training of per-
10 sonnel on behalf of a separated affiliate;

11 “(B) to perform the purchasing, installa-
12 tion, or maintenance of equipment on behalf of
13 a separated affiliate, except for telephone serv-
14 ice that it provides under tariff or contract sub-
15 ject to the provisions of this section; or

16 “(C) to perform research and development
17 on behalf of a separated affiliate;

18 “(8) each have performed annually a compli-
19 ance review—

20 “(A) that is conducted by an independent
21 entity for the purpose of determining compli-
22 ance during the preceding calendar year with
23 any provision of this section; and

24 “(B) the results of which are maintained
25 by the separated affiliate or joint venture and

1 the Bell operating company for a period of 5
2 years subject to review by any lawful authority;

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

11 “(c) JOINT MARKETING.—

12 “(1) IN GENERAL.—Except as provided in para-
13 graph (2)—

14 “(A) a Bell operating company shall not
15 carry out any promotion, marketing, sales, or
16 advertising for or in conjunction with a sepa-
17 rated affiliate; and

18 “(B) a Bell operating company shall not
19 carry out any promotion, marketing, sales, or
20 advertising for or in conjunction with an affili-
21 ate that is related to the provision of electronic
22 publishing.

23 “(2) PERMISSIBLE JOINT ACTIVITIES.—

24 “(A) JOINT TELEMARKETING.—A Bell op-
25 erating company may provide inbound

1 telemarketing or referral services related to the
2 provision of electronic publishing for a sepa-
3 rated affiliate, electronic publishing joint ven-
4 ture, affiliate, or unaffiliated electronic pub-
5 lisher, provided that if such services are pro-
6 vided to a separated affiliate, electronic publish-
7 ing joint venture, or affiliate, such services shall
8 be made available to all electronic publishers on
9 request, on nondiscriminatory terms.

10 “(B) TEAMING ARRANGEMENTS.—A Bell
11 operating company may engage in nondiscrim-
12 inatory teaming or business arrangements to
13 engage in electronic publishing with any sepa-
14 rated affiliate or with any other electronic pub-
15 lisher if (i) the Bell operating company only
16 provides facilities, services, and basic telephone
17 service information as authorized by this sec-
18 tion, and (ii) the Bell operating company does
19 not own such teaming or business arrangement.

20 “(C) ELECTRONIC PUBLISHING JOINT
21 VENTURES.—A Bell operating company or affil-
22 iate may participate on a nonexclusive basis in
23 electronic publishing joint ventures with entities
24 that are not any Bell operating company, affili-
25 ate, or separated affiliate to provide electronic

1 publishing services, if the Bell operating com-
2 pany or affiliate has not more than a 50 per-
3 cent direct or indirect equity interest (or the
4 equivalent thereof) or the right to more than 50
5 percent of the gross revenues under a revenue
6 sharing or royalty agreement in any electronic
7 publishing joint venture. Officers and employees
8 of a Bell operating company or affiliate partici-
9 pating in an electronic publishing joint venture
10 may not have more than 50 percent of the vot-
11 ing control over the electronic publishing joint
12 venture. In the case of joint ventures with
13 small, local electronic publishers, the Commis-
14 sion for good cause shown may authorize the
15 Bell operating company or affiliate to have a
16 larger equity interest, revenue share, or voting
17 control but not to exceed 80 percent. A Bell op-
18 erating company participating in an electronic
19 publishing joint venture may provide promotion,
20 marketing, sales, or advertising personnel and
21 services to such joint venture.

22 “(d) PRIVATE RIGHT OF ACTION.—

23 “(1) DAMAGES.—Any person claiming that any
24 act or practice of any Bell operating company, affili-
25 ate, or separated affiliate constitutes a violation of

1 this section may file a complaint with the Commis-
2 sion or bring suit as provided in section 207 of this
3 Act, and such Bell operating company, affiliate, or
4 separated affiliate shall be liable as provided in sec-
5 tion 206 of this Act; except that damages may not
6 be awarded for a violation that is discovered by a
7 compliance review as required by subsection (b)(7)
8 of this section and corrected within 90 days.

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

20 “(e) SEPARATED AFFILIATE REPORTING REQUIRE-
21 MENT.—Any separated affiliate under this section shall
22 file with the Commission annual reports in a form sub-
23 stantially equivalent to the Form 10-K required by regula-
24 tions of the Securities and Exchange Commission.

25 “(f) EFFECTIVE DATES.—

1 “(1) TRANSITION.—Any electronic publishing
2 service being offered to the public by a Bell operat-
3 ing company or affiliate on the date of enactment of
4 this section shall have one year from such date of
5 enactment to comply with the requirements of this
6 section.

7 “(2) SUNSET.—The provisions of this section
8 shall not apply to conduct occurring after June 30,
9 2000.

10 “(g) DEFINITION OF ELECTRONIC PUBLISHING.—

11 “(1) IN GENERAL.—The term ‘electronic pub-
12 lishing’ means the dissemination, provision, publica-
13 tion, or sale to an unaffiliated entity or person, of
14 any one or more of the following: news (including
15 sports); business or financial reports; editorials, col-
16 umns, or features; advertising; photos or images of
17 a type used in publishing; archival material of a type
18 used in publishing legal notices; or other like or
19 similar information.

20 “(2) EXCEPTIONS.—The term ‘electronic pub-
21 lishing’ shall not include the following services:

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

24 “(B) The transmission of information as a
25 common carrier.

1 “(C) The transmission of information as
2 part of a gateway to an information service that
3 does not involve the generation or alteration of
4 the content of information, including data
5 transmission, address translation, protocol con-
6 version, billing management, introductory infor-
7 mation content, and navigational systems that
8 enable users to access electronic publishing
9 services, which do not affect the presentation of
10 such electronic publishing services to users.

11 “(D) Voice storage and retrieval services,
12 including voice messaging and electronic mail
13 services.

14 “(E) Data processing or transaction proc-
15 essing services that do not involve the genera-
16 tion or alteration of the content of information.

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

20 “(G) Language translation or data format
21 conversion.

22 “(H) The provision of information nec-
23 essary for the management, control, or oper-
24 ation of a telephone company telecommuni-
25 cations system.

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

4 “(J) Caller identification services.

5 “(K) Repair and provisioning databases
6 and credit card and billing validation for tele-
7 phone company operations.

8 “(L) 911-E and other emergency assist-
9 ance databases.

10 “(M) Any other network service of a type
11 that is like or similar to these network services
12 and that does not involve the generation or al-
13 teration of the content of information.

14 “(N) Any upgrades to these network serv-
15 ices that do not involve the generation or alter-
16 ation of the content of information.

17 “(O) Video programming or full motion
18 video entertainment on demand.

19 “(h) ADDITIONAL DEFINITIONS.—As used in this
20 section—

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

1 “(2) The term ‘basic telephone service’ means
2 wireline telephone exchange service provided by a
3 Bell operating company in a telephone exchange
4 area, except that such term does not include—

5 “(A) a competitive wireline telephone ex-
6 change service provided in a telephone exchange
7 area where another entity provides a wireline
8 telephone exchange service that was provided on
9 January 1, 1984, and

10 “(B) a commercial mobile service.

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

17 “(4) The term ‘control’ has the meaning that it
18 has in 17 C.F.R. 240.12b-2, the regulations promul-
19 gated by the Securities and Exchange Commission
20 pursuant to the Securities Exchange Act of 1934
21 (15 U.S.C. 78a et seq.) or any successor provision
22 to such section.

23 “(5) The term ‘electronic publishing joint ven-
24 ture’ means a joint venture owned by a Bell operat-
25 ing company or affiliate that engages in the provi-

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

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

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

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

17 “(9) The term ‘separated affiliate’ means a cor-
18 poration under common ownership or control with a
19 Bell operating company that does not own or control
20 a Bell operating company and is not owned or con-
21 trolled by a Bell operating company and that en-
22 gages in the provision of electronic publishing which
23 is disseminated by means of such Bell operating
24 company's or any of its affiliates' basic telephone
25 service.

1 “(10) The term ‘Bell operating company’ has
2 the meaning provided in section 3, except that such
3 term includes any entity or corporation that is
4 owned or controlled by such a company (as so de-
5 fined) but does not include an electronic publishing
6 joint venture owned by such an entity or corpora-
7 tion.

8 **“SEC. 273. ALARM MONITORING AND TELEMESSAGING**
9 **SERVICES BY BELL OPERATING COMPANIES.**

10 “(a) DELAYED ENTRY INTO ALARM MONITORING.—

11 “(1) PROHIBITION.—No Bell operating com-
12 pany or affiliate thereof shall engage in the provision
13 of alarm monitoring services before July 1, 2000.

14 “(2) EXISTING ACTIVITIES.—Paragraph (1)
15 shall not apply to any provision of alarm monitoring
16 services in which a Bell operating company or affili-
17 ate is lawfully engaged on the date of enactment of
18 this part.

19 “(b) NONDISCRIMINATION.—A common carrier en-
20 gaged in the provision of alarm monitoring services or
21 telemessaging services shall—

22 “(1) provide nonaffiliated entities, upon reason-
23 able request, with the network services it provides to
24 its own alarm monitoring or telemessaging oper-

1 ations, on nondiscriminatory terms and conditions;
2 and

3 “(2) not subsidize its alarm monitoring services
4 or its telemessaging services with revenues from tele-
5 phone exchange service.

6 “(c) EXPEDITED CONSIDERATION OF COM-
7 PLAINTS.—The Commission shall establish procedures for
8 the receipt and review of complaints concerning violations
9 of subsection (b) or the regulations thereunder that result
10 in material financial harm to a provider of alarm monitor-
11 ing service or telemessaging service. Such procedures shall
12 ensure that the Commission will make a final determina-
13 tion with respect to any such complaint within 120 days
14 after receipt of the complaint. If the complaint contains
15 an appropriate showing that the alleged violation occurred,
16 as determined by the Commission in accordance with such
17 regulations, the Commission shall, within 60 days after
18 receipt of the complaint, order the common carrier and
19 its affiliates to cease engaging in such violation pending
20 such final determination.

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

22 “(1) ALARM MONITORING SERVICE.—The term
23 ‘alarm monitoring service’ means a service that uses
24 a device located at a residence, place of business, or
25 other fixed premises—

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

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

14 but does not include a service that uses a medical
15 monitoring device attached to an individual for the
16 automatic surveillance of an ongoing medical condi-
17 tion.

18 “(2) TELEMESSAGING SERVICES.—The term
19 ‘telemessaging services’ means voice mail and voice
20 storage and retrieval services provided over tele-
21 phone lines for telemessaging customers and any live
22 operator services used to answer, record, transcribe,
23 and relay messages (other than telecommunications
24 relay services) from incoming telephone calls on be-

1 half of the telemessaging customers (other than any
2 service incidental to directory assistance).”.

3 **SEC. 103. FORBEARANCE FROM REGULATION.**

4 Title II of the Communications Act of 1934 is
5 amended by inserting after section 228 (47 U.S.C. 228)
6 the following new section:

7 **“SEC. 229. FORBEARANCE FROM REGULATION.**

8 “(a) AUTHORITY TO FORBEAR.—The Commission
9 shall forbear from applying any provision of this part or
10 part II (other than sections 201, 202, 208, 243, and 247),
11 or any regulation thereunder, to a common carrier or serv-
12 ice, or class of carriers or services, in any or some of its
13 or their geographic markets, if the Commission determines
14 that—

15 “(1) enforcement of such provision or regula-
16 tion is not necessary to ensure that the charges,
17 practices, classifications, or regulations by, for, or in
18 connection with that carrier or service are just and
19 reasonable and are not unjustly or unreasonably dis-
20 criminatory;

21 “(2) enforcement of such regulation or provi-
22 sion is not necessary for the protection of consum-
23 ers; and

24 “(3) forbearance from applying such provision
25 or regulation is consistent with the public interest.

1 “(b) COMPETITIVE EFFECT TO BE WEIGHED.—In
2 making the determination under subsection (a)(3), the
3 Commission shall consider whether forbearance from en-
4 forcing the provision or regulation will promote competi-
5 tive market conditions, including the extent to which such
6 forbearance will enhance competition among providers of
7 telecommunications services. If the Commission deter-
8 mines that such forbearance will promote competition
9 among providers of telecommunications services, that de-
10 termination may be the basis for a Commission finding
11 that forbearance is in the public interest.”.

12 **SEC. 104. PRIVACY OF CUSTOMER INFORMATION.**

13 (a) PRIVACY OF CUSTOMER PROPRIETARY NETWORK
14 INFORMATION.—Title II of the Communications Act of
15 1934 is amended by inserting after section 221 (47 U.S.C.
16 221) the following new section:

17 **“SEC. 222. PRIVACY OF CUSTOMER PROPRIETARY NET-**
18 **WORK INFORMATION.**

19 “(a) SUBSCRIBER LIST INFORMATION.—Notwith-
20 standing subsections (b), (c), and (d), a carrier that pro-
21 vides subscriber list information to any affiliated or unaf-
22 filiated service provider or person shall provide subscriber
23 list information on a timely and unbundled basis, under
24 nondiscriminatory and reasonable rates, terms, and condi-
25 tions, to any person upon request.

1 “(b) PRIVACY REQUIREMENTS FOR COMMON CAR-
2 RRIERS.—A carrier—

3 “(1) shall not, except as required by law or with
4 the approval of the customer to which the informa-
5 tion relates—

6 “(A) use customer proprietary network in-
7 formation in the provision of any service except
8 to the extent necessary (i) in the provision of
9 common carrier services, (ii) in the provision of
10 a service necessary to or used in the provision
11 of common carrier services, including the pub-
12 lishing of directories, or (iii) to continue to pro-
13 vide a particular information service that the
14 carrier provided as of May 1, 1995, to persons
15 who were customers of such service on that
16 date;

17 “(B) use customer proprietary network in-
18 formation in the identification or solicitation of
19 potential customers for any service other than
20 the telephone exchange service or telephone toll
21 service from which such information is derived;

22 “(C) use customer proprietary network in-
23 formation in the provision of customer premises
24 equipment; or

1 “(D) disclose customer proprietary net-
2 work information to any person except to the
3 extent necessary to permit such person to pro-
4 vide services or products that are used in and
5 necessary to the provision by such carrier of the
6 services described in subparagraph (A);

7 “(2) shall disclose customer proprietary net-
8 work information, upon affirmative written request
9 by the customer, to any person designated by the
10 customer;

11 “(3) shall, whenever such carrier provides any
12 aggregate information, notify the Commission of the
13 availability of such aggregate information and shall
14 provide such aggregate information on reasonable
15 terms and conditions to any other service or equip-
16 ment provider upon reasonable request therefor; and

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

23 “(c) RULE OF CONSTRUCTION.—This section shall
24 not be construed to prohibit the use or disclosure of cus-
25 tomer proprietary network information as necessary—

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

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

5 “(3) to protect the rights or property of the
6 carrier;

7 “(4) to protect users of any of those services
8 and other carriers from fraudulent, abusive, or un-
9 lawful use of or subscription to such service; or

10 “(5) to provide any inbound telemarketing, re-
11 ferral, or administrative services to the customer for
12 the duration of the call if such call was initiated by
13 the customer and the customer approves of the use
14 of such information to provide such service.

15 “(d) EXEMPTION PERMITTED.—The Commission
16 may, by rule, exempt from the requirements of subsection
17 (b) carriers that have, together with any affiliated carriers,
18 in the aggregate nationwide, fewer than 500,000 access
19 lines installed if the Commission determines that such ex-
20 emption is in the public interest or if compliance with the
21 requirements would impose an undue economic burden on
22 the carrier.

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

1 “(1) CUSTOMER PROPRIETARY NETWORK IN-
2 FORMATION.—The term ‘customer proprietary net-
3 work information’ means—

4 “(A) information which relates to the
5 quantity, technical configuration, type, destina-
6 tion, and amount of use of telephone exchange
7 service or telephone toll service subscribed to by
8 any customer of a carrier, and is made available
9 to the carrier by the customer solely by virtue
10 of the carrier-customer relationship;

11 “(B) information contained in the bills per-
12 taining to telephone exchange service or tele-
13 phone toll service received by a customer of a
14 carrier; and

15 “(C) such other information concerning the
16 customer as is available to the local exchange
17 carrier by virtue of the customer’s use of the
18 carrier’s telephone exchange service or tele-
19 phone toll services, and specified as within the
20 definition of such term by such rules as the
21 Commission shall prescribe consistent with the
22 public interest;

23 except that such term does not include subscriber
24 list information.

1 “(2) SUBSCRIBER LIST INFORMATION.—The
2 term ‘subscriber list information’ means any infor-
3 mation—

4 “(A) identifying the listed names of sub-
5 scribers of a carrier and such subscribers’ tele-
6 phone numbers, addresses, or primary advertis-
7 ing classifications, or any combination of such
8 listed names, numbers, addresses, or classifica-
9 tions; and

10 “(B) that the carrier or an affiliate has
11 published or accepted for future publication.”.

12 “(3) AGGREGATE INFORMATION.—The term
13 ‘aggregate information’ means collective data that
14 relates to a group or category of services or cus-
15 tomers, from which individual customer identities
16 and characteristics have been removed.”.

17 (b) CONVERGING COMMUNICATIONS TECHNOLOGIES
18 AND CONSUMER PRIVACY.—

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

22 (A) to examine the impact of the integra-
23 tion into interconnected communications net-
24 works of wireless telephone, cable, satellite, and
25 other technologies on the privacy rights and

1 remedies of the consumers of those tech-
2 nologies;

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

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

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

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

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

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

3 (A) to have knowledge that consumer in-
4 formation is being collected about them through
5 their utilization of various communications
6 technologies;

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

13 (C) to stop the reuse or sale of that infor-
14 mation.

15 (3) SCHEDULE FOR COMMISSION RESPONSES.—

16 The Commission shall, within 18 months after the
17 date of enactment of this Act—

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

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

1 **SEC. 105. POLE ATTACHMENTS.**

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

4 (1) in subsection (a)(4)—

5 (A) by inserting after “system” the follow-
6 ing: “or a provider of telecommunications serv-
7 ice”; and

8 (B) by inserting after “utility” the follow-
9 ing: “, which attachment may be used by such
10 cable television system to provide cable service
11 or any other service.”;

12 (2) by redesignating paragraphs (1) and (2) of
13 subsection (b) as paragraphs (2) and (3), respec-
14 tively;

15 (3) by inserting before paragraph (2) of sub-
16 section (b) (as so redesignated) the following:

17 “(b)(1) A utility shall provide a cable television sys-
18 tem or other provider of telecommunications services with
19 nondiscriminatory access to any pole, duct, conduit, or
20 right-of-way owned or controlled by the utility.”;

21 (4) in subsection (c)(2)(B), by striking “cable
22 television services” and inserting “the services of-
23 fered via such attachments”;

24 (5) by redesignating subsection (d)(2) as sub-
25 section (d)(4); and

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

3 “(d)(1) For purposes of subsection (b) of this section,
4 the Commission shall, no later than 1 year after the date
5 of enactment of the Communication Act of 1995, prescribe
6 regulations for ensuring that utilities charge just and rea-
7 sonable and nondiscriminatory rates for pole attachments
8 provided to all providers of telecommunications services,
9 including such attachments used by cable television sys-
10 tems to provide telecommunications services (as defined
11 in section 3 of this Act). Such regulations shall—

12 “(A) apportion the cost of the entire pole, duct,
13 conduit, or right-of-way according to the percentage
14 of usable space required for each entity, and

15 “(B) allow for reasonable terms and conditions
16 relating to health, safety, and the provision of reli-
17 able utility service.

18 “(2) An entity that obtains an attachment to a pole,
19 conduit, or right-of-way shall not be required to bear any
20 of the costs of rearranging or replacing its attachment,
21 if such rearrangement or replacement is required as a re-
22 sult of an additional attachment or the modification of an
23 existing attachment sought by any other entity (including
24 the owner of such pole, conduct, or right-of-way).

1 “(3) Whenever the owner of a conduit or right-of-way
2 has made such conduit or right-of-way accessible, the
3 owner shall provide written notification of such action to
4 any entity that has obtained an attachment to such con-
5 duit or right-of-way so that such entity may have a reason-
6 able opportunity to add to or modify its existing attach-
7 ment. Any entity that adds to or modifies its existing at-
8 tachment after receiving such notification shall bear an
9 equitable share of the costs incurred by the owner in mak-
10 ing such conduit or right-of-way accessible.”.

11 **SEC. 106. PREEMPTION OF FRANCHISING AUTHORITY REG-**
12 **ULATION OF TELECOMMUNICATIONS SERV-**
13 **ICES.**

14 (a) TELECOMMUNICATIONS SERVICES.—Section
15 621(b) of the Communications Act of 1934 (47 U.S.C.
16 541(c)) is amended by adding at the end thereof the fol-
17 lowing new paragraph:

18 “(3)(A) To the extent that a cable operator or affili-
19 ate thereof is engaged in the provision of telecommuni-
20 cations services—

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

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

1 “(B) A franchising authority may not impose any re-
2 quirement that has the purpose or effect of prohibiting,
3 limiting, restricting, or conditioning the provision of a tele-
4 communications service by a cable operator or an affiliate
5 thereof.

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

8 “(i) to discontinue the provision of a tele-
9 communications service, or

10 “(ii) to discontinue the operation of a cable sys-
11 tem, to the extent such cable system is used for the
12 provision of a telecommunications service, by reason
13 of the failure of such cable operator or affiliate
14 thereof to obtain a franchise or franchise renewal
15 under this title with respect to the provision of such
16 telecommunications service.

17 “(D) A franchising authority may not require a cable
18 operator to provide any telecommunications service or fa-
19 cilities as a condition of the initial grant of a franchise
20 or a franchise renewal.”.

21 (b) FRANCHISE FEES.—Section 622(b) of the Com-
22 munications Act of 1934 (47 U.S.C. 542(b)) is amended
23 by inserting “to provide cable services” immediately before
24 the period at the end of the first sentence thereof.

1 **SEC. 107. MOBILE SERVICE ACCESS TO LONG DISTANCE**
2 **CARRIERS.**

3 (a) AMENDMENT.—Section 332(c) of the Commu-
4 nications Act of 1934 (47 U.S.C. 332(c)) is amended by
5 adding at the end the following new paragraph:

6 “(7) MOBILE SERVICES ACCESS.—(A) The
7 Commission shall prescribe regulations to afford
8 subscribers of two-way switched voice commercial
9 mobile radio services access to a provider of tele-
10 phone toll service of the subscriber’s choice, except
11 to the extent that such provider is engaged in the
12 provision of a mobile satellite service. The Commis-
13 sion may exempt carriers or classes of carriers from
14 the requirements of such regulations to the extent
15 the Commission determines such exemption is con-
16 sistent with the public interest, convenience, and ne-
17 cessity. For purposes of this paragraph, ‘access’
18 shall mean access to a provider of telephone toll
19 service through the use of carrier identification
20 codes assigned to each such provider.

21 “(B) The regulations prescribed by the Com-
22 mission pursuant to subparagraph (A) shall super-
23 sede any inconsistent requirements imposed by the
24 Modification of Final Judgment or any order in
25 United States v. AT&T Corp. and McCaw Cellular
26 Communications, Inc., Civil Action No. 94-01555

1 (United States District Court, District of Colum-
2 bia).”.

3 (b) EFFECTIVE DATE CONFORMING AMENDMENT.—
4 Section 6002(c)(2)(B) of the Omnibus Budget Reconcili-
5 ation Act of 1993 is amended by striking “section
6 332(c)(6)” and inserting “paragraphs (6) and (7) of sec-
7 tion 332(c)”.

8 **TITLE II—CABLE COMMUNICA-** 9 **TIONS COMPETITIVENESS**

10 **SEC. 201. CABLE SERVICE PROVIDED BY TELEPHONE COM-** 11 **PANIES.**

12 (a) GENERAL REQUIREMENT.—

13 (1) AMENDMENT.—Section 613(b) of the Com-
14 munications Act of 1934 (47 U.S.C. 533(b)) is
15 amended to read as follows:

16 “(b)(1) Subject to the requirements of part V and
17 the other provisions of this title, any common carrier sub-
18 ject in whole or in part to title II of this Act may, either
19 through its own facilities or through an affiliate, provide
20 video programming directly to subscribers in its telephone
21 service area.

22 “(2) Subject to the requirements of part V and the
23 other provisions of this title, any common carrier subject
24 in whole or in part to title II of this Act may provide chan-
25 nels of communications or pole, line, or conduit space, or

1 other rental arrangements, to any entity which is directly
2 or indirectly owned, operated, or controlled by, or under
3 common control with, such common carrier, if such facili-
4 ties or arrangements are to be used for, or in connection
5 with, the provision of video programming directly to sub-
6 scribers in its telephone service area.

7 “(3) Notwithstanding paragraphs (1) and (2), an af-
8 filiate that—

9 “(A) is, consistent with section 656, owned, op-
10 erated, or controlled by, or under common control
11 with, a common carrier subject in whole or in part
12 to title II of this Act, and

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

15 “(C) does not utilize the local exchange facili-
16 ties or services of any affiliated common carrier in
17 distributing such programming,

18 shall not be subject to the requirements of part V, but
19 shall be subject to the requirements of this part and parts
20 III and IV.”.

21 (2) CONFORMING AMENDMENT.—Section 602
22 of the Communications Act of 1934 (47 U.S.C. 531)
23 is amended—

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

1 (B) by redesignating paragraphs (18) and
2 (19) as paragraphs (19) and (20) respectively;
3 and

4 (C) by inserting after paragraph (17) the
5 following new paragraph:

6 “(18) the term ‘telephone service area’ when
7 used in connection with a common carrier subject in
8 whole or in part to title II of this Act means the
9 area within which such carrier provides telephone ex-
10 change service as of May 1, 1995, but if any com-
11 mon carrier after such date transfers its exchange
12 service facilities to another common carrier, the area
13 to which such facilities provide telephone exchange
14 service shall be treated as part of the telephone serv-
15 ice area of the acquiring common carrier and not of
16 the selling common carrier;”.

17 (b) PROVISIONS FOR REGULATION OF CABLE SERV-
18 ICE PROVIDED BY TELEPHONE COMPANIES.—Title VI of
19 the Communications Act of 1934 (47 U.S.C. 521 et seq.)
20 is amended by adding at the end the following new part:

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

22 **PROVIDED BY TELEPHONE COMPANIES**

23 **“SEC. 651. DEFINITIONS.**

24 “For purposes of this part—

25 “(1) the term ‘control’ means—

1 “(A) an ownership interest in which an en-
2 tity has the right to vote more than 50 percent
3 of the outstanding common stock or other own-
4 ership interest; or

5 “(B) if no single entity directly or indi-
6 rectly has the right to vote more than 50 per-
7 cent of the outstanding common stock or other
8 ownership interest, actual working control, in
9 whatever manner exercised, as defined by the
10 Commission by regulation on the basis of rel-
11 evant factors and circumstances, which shall in-
12 clude partnership and direct ownership inter-
13 ests, voting stock interests, the interests of offi-
14 cers and directors, and the aggregation of vot-
15 ing interests; and

16 “(2) the term ‘rural area’ means a geographic
17 area that does not include either—

18 “(A) any incorporated or unincorporated
19 place of 10,000 inhabitants or more, or any
20 part thereof; or

21 “(B) any territory, incorporated or unin-
22 corporated, included in an urbanized area, as
23 defined by the Bureau of the Census.

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

2 “(a) IN GENERAL.—Except as provided in subsection
3 (d) of this section, a common carrier subject to title II
4 of this Act shall not provide video programming directly
5 to subscribers in its telephone service area unless such
6 video programming is provided through a video program-
7 ming affiliate that is separate from such carrier.

8 “(b) BOOKS AND MARKETING.—

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

11 “(A) maintain books, records, and ac-
12 counts separate from such carrier which iden-
13 tify all transactions with such carrier;

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

19 “(C) not own real or personal property in
20 common with such carrier.

21 “(2) INBOUND TELEMARKETING AND REFER-
22 RAL.—Notwithstanding paragraph (1)(B), a com-
23 mon carrier may provide telemarketing or referral
24 services in response to the call of a customer or po-
25 tential customer related to the provision of video
26 programming by a video programming affiliate of

1 such carrier. If such services are provided to a video
2 programming affiliate, such services shall be made
3 available to any video programmer or cable operator
4 on request, on nondiscriminatory terms, at just and
5 reasonable prices, and subject to regulations of the
6 Commission to ensure that the carrier's method of
7 providing telemarketing or referral and its price
8 structure do not competitively disadvantage any
9 video programmer or cable operator, regardless of
10 size, including those which do not use the carrier's
11 telemarketing services.

12 “(3) JOINT MARKETING.—Notwithstanding
13 paragraph (1)(B), a common carrier may market
14 video programming directly upon a showing to the
15 Commission that a cable operator or other entity di-
16 rectly or indirectly provides telecommunications serv-
17 ices within the telephone service area of the common
18 carrier, and markets such telecommunications serv-
19 ices jointly with video programming services. The
20 common carrier shall specify the geographic region
21 covered by the showing. The Commission shall ap-
22 prove or disapprove such showing within 60 days
23 after the date of its submission.

24 “(c) BUSINESS TRANSACTIONS WITH CARRIER.—
25 Any contract, agreement, arrangement, or other manner

1 of conducting business, between a common carrier and its
2 video programming affiliate, providing for—

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

5 “(2) the furnishing of goods or services between
6 such affiliate and such carrier, or

7 “(3) the transfer to or use by such affiliate for
8 its benefit of any asset or resource of such carrier,
9 shall be on a fully compensatory and auditable basis, shall
10 be without cost to the telephone service ratepayers of the
11 carrier, shall be filed with the Commission, and shall be
12 in compliance with regulations established by the Commis-
13 sion that will enable the Commission to assess the compli-
14 ance of any transaction.

15 “(d) WAIVER.—

16 “(1) CRITERIA FOR WAIVER.—The Commission
17 may waive any of the requirements of this section
18 for small telephone companies or telephone compa-
19 nies serving rural areas, if the Commission deter-
20 mines, after notice and comment, that—

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

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

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

7 “(D) such waiver otherwise is in the public
8 interest.

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

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

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

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

20 “(a) VIDEO PLATFORM.—

21 “(1) IN GENERAL.—Any common carrier sub-
22 ject to title II of this Act, and that provides video
23 programming directly to subscribers in its telephone
24 service area, shall establish a video platform. This
25 paragraph shall not apply to any carrier to the ex-

1 tent that it provides video programming directly to
2 subscribers in its telephone service area solely
3 through a cable system acquired in accordance with
4 section 655(b).

5 “(2) IDENTIFICATION OF DEMAND FOR CAR-
6 RIAGE.—Any common carrier subject to the require-
7 ments of paragraph (1) shall, prior to establishing a
8 video platform, submit a notice to the Commission
9 of its intention to establish channel capacity for the
10 provision of video programming to meet the bona
11 fide demand for such capacity. Such notice shall—

12 “(A) be in such form and contain informa-
13 tion concerning the geographic area intended to
14 be served and such information as the Commis-
15 sion may require by regulations pursuant to
16 subsection (b);

17 “(B) specify the methods by which any en-
18 tity seeking to use such channel capacity should
19 submit to such carrier a specification of its
20 channel capacity requirements; and

21 “(C) specify the procedures by which such
22 carrier will determine (in accordance with the
23 Commission’s regulations under subsection
24 (b)(1)(B)) whether such requests for capacity
25 are bona fide.

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

4 “(3) RESPONSE TO REQUEST FOR CARRIAGE.—
5 After receiving and reviewing the requests for capac-
6 ity submitted pursuant to such notice, such common
7 carrier shall establish channel capacity that is suffi-
8 cient to provide carriage for—

9 “(A) all bona fide requests submitted pur-
10 suant to such notice,

11 “(B) any additional channels required pur-
12 suant to section 656, and

13 “(C) any additional channels required by
14 the Commission’s regulations under subsection
15 (b)(1)(C).

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

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

23 “(B) continue to receive and grant, to the
24 extent of available capacity, carriage in re-
25 sponse to bona fide requests for carriage from

1 existing or additional video programming pro-
2 viders;

3 “(C) if at any time the number of channels
4 required for bona fide requests for carriage may
5 reasonably be expected soon to exceed the exist-
6 ing capacity of such video platform, imme-
7 diately notify the Commission of such expecta-
8 tion and of the manner and date by which such
9 carrier will provide sufficient capacity to meet
10 such excess demand; and

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

13 “(5) DISPUTE RESOLUTION.—The Commission
14 shall have the authority to resolve disputes under
15 this section and the regulations prescribed there-
16 under. Any such dispute shall be resolved within 180
17 days after notice of such dispute is submitted to the
18 Commission. At that time or subsequently in a sepa-
19 rate damages proceeding, the Commission may
20 award damages sustained in consequence of any vio-
21 lation of this section to any person denied carriage,
22 or require carriage, or both. Any aggrieved party
23 may seek any other remedy available under this Act.

24 “(b) COMMISSION ACTIONS.—

1 “(1) IN GENERAL.—Within 15 months after the
2 date of the enactment of this section, the Commis-
3 sion shall complete all actions necessary (including
4 any reconsideration) to prescribe regulations that—

5 “(A) consistent with the requirements of
6 section 656, prohibit a common carrier from
7 discriminating among video programming pro-
8 viders with regard to carriage on its video plat-
9 form, and ensure that the rates, terms, and
10 conditions for such carriage are just, reason-
11 able, and nondiscriminatory;

12 “(B) prescribe definitions and criteria for
13 the purposes of determining whether a request
14 shall be considered a bona fide request for pur-
15 poses of this section;

16 “(C) permit a common carrier to carry on
17 only one channel any video programming service
18 that is offered by more than one video program-
19 ming provider (including the common carrier’s
20 video programming affiliate), provided that sub-
21 scribers have ready and immediate access to
22 any such video programming service;

23 “(D) establish a requirement that video
24 platforms contain a suitable margin of unused

1 channel capacity to meet reasonable growth in
2 bona fide demand for such capacity;

3 “(E) extend to the distribution of video
4 programming over video platforms the Commis-
5 sion’s regulations concerning network non-
6 duplication (47 C.F.R. 76.92 et seq.) and syn-
7 dicated exclusivity (47 C.F.R. 76.151 et seq.);

8 “(F) require the video platform to provide
9 service, transmission, interconnection, and
10 interoperability for unaffiliated or independent
11 video programming providers that is equivalent
12 to that provided to the common carrier’s video
13 programming affiliate, except that the video
14 platform shall not discriminate between analog
15 and digital video programming offered by such
16 unaffiliated or independent video programming
17 providers;

18 “(G)(i) prohibit a common carrier from
19 discriminating among video programming pro-
20 viders with regard to material or information
21 provided by the common carrier to subscribers
22 for the purposes of selecting programming on
23 the video platform, or in the way such material
24 or information is presented to subscribers;

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

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

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

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

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

3 “(c) REGULATORY STREAMLINING.—With respect to
4 the establishment and operation of a video platform, the
5 requirements of this section shall apply in lieu of, and not
6 in addition to, the requirements of title II.

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

14 **“SEC. 654. AUTHORITY TO PROHIBIT CROSS-SUBSIDIZA-**
15 **TION.**

16 “Nothing in this part shall prohibit a State commis-
17 sion that regulates the rates for telephone exchange serv-
18 ice or exchange access based on the cost of providing such
19 service or access from—

20 “(1) prescribing regulations to prohibit a com-
21 mon carrier from engaging in any practice that re-
22 sults in the inclusion in rates for telephone exchange
23 service or exchange access of any operating ex-
24 penses, costs, depreciation charges, capital invest-
25 ments, or other expenses directly associated with the

1 provision of competing video programming services
2 by the common carrier or affiliate; or

3 “(2) ensuring such competing video program-
4 ming services bear a reasonable share of the joint
5 and common costs of facilities used to provide tele-
6 phone exchange service or exchange access and com-
7 peting video programming services.

8 **“SEC. 655. PROHIBITION ON BUY OUTS.**

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

15 “(b) EXCEPTIONS.—Notwithstanding subsection (a),
16 a common carrier may—

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

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

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

4 “(B) no such system serves a franchise
5 area with more than 35,000 inhabitants, except
6 that a common carrier may obtain such interest
7 or form such joint venture or other partnership
8 with a cable system that serves a franchise area
9 with more than 35,000 but not more than
10 50,000 inhabitants if such system is not affili-
11 ated with any other system whose franchise
12 area is contiguous to the franchise area of the
13 acquired system;

14 “(3) obtain, with the concurrence of the cable
15 operator on the rates, terms, and conditions, the use
16 of that part of the transmission facilities of such a
17 cable system extending from the last multi-user ter-
18 minal to the premises of the end user, if such use
19 is reasonably limited in scope and duration, as deter-
20 mined by the Commission; or

21 “(4) obtain a controlling interest in, or form a
22 joint venture or other partnership with, or provide
23 financing to, a cable system (hereinafter in this
24 paragraph referred to as ‘the subject cable system’),
25 if—

1 “(A) the subject cable system operates in
2 a television market that is not in the top 25
3 markets, and that has more than 1 cable sys-
4 tem operator, and the subject cable system is
5 not the largest cable system in such television
6 market;

7 “(B) the subject cable system and the larg-
8 est cable system in such television market held
9 on May 1, 1995, cable television franchises
10 from the largest municipality in the television
11 market and the boundaries of such franchises
12 were identical on such date;

13 “(C) the subject cable system is not owned
14 by or under common ownership or control of
15 any one of the 50 largest cable system opera-
16 tors as existed on May 1, 1995; and

17 “(D) the largest system in the television
18 market is owned by or under common owner-
19 ship or control of any one of the 10 largest
20 cable system operators as existed on May 1,
21 1995.

22 “(c) WAIVER.—

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

1 “(A) because of the nature of the market
2 served by the cable system concerned—

3 “(i) the incumbent cable operator
4 would be subjected to undue economic dis-
5 tress by the enforcement of such sub-
6 section; or

7 “(ii) the cable system would not be
8 economically viable if such subsection were
9 enforced; and

10 “(B) the local franchising authority ap-
11 proves of such waiver.

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

15 **“SEC. 656. APPLICABILITY OF PARTS I THROUGH IV.**

16 “(a) IN GENERAL.—Any provision that applies to a
17 cable operator under—

18 “(1) sections 613, 616, 617, 628, 631, 632,
19 and 634 of this title, shall apply,

20 “(2) sections 611, 612, 614, and 615 of this
21 title, and section 325 of title III, shall apply in ac-
22 cordance with the regulations prescribed under sub-
23 section (b), and

24 “(3) parts III and IV (other than sections 628,
25 631, 632, and 634) of this title shall not apply,

1 to any video programming affiliate established by a com-
2 mon carrier in accordance with the requirements of this
3 part.

4 “(b) IMPLEMENTATION.—

5 “(1) COMMISSION ACTION.—The Commission
6 shall prescribe regulations to ensure that a common
7 carrier in the operation of its video platform shall
8 provide (A) capacity, services, facilities, and equip-
9 ment for public, educational, and governmental use,
10 (B) capacity for commercial use, (C) carriage of
11 commercial and non-commercial broadcast television
12 stations, and (D) an opportunity for commercial
13 broadcast stations to choose between mandatory car-
14 riage and reimbursement for retransmission of the
15 signal of such station. In prescribing such regula-
16 tions, the Commission shall, to the extent possible,
17 impose obligations that are no greater or lesser than
18 the obligations contained in the provisions described
19 in subsection (a)(2) of this section.

20 “(2) FEES.—A video programming affiliate of
21 any common carrier that establishes a video plat-
22 form under this part, and any multichannel video
23 programming distributor offering a competing serv-
24 ice using such video platform (as determined in ac-
25 cordance with regulations of the Commission), shall

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

7 **“SEC. 657. RURAL AREA EXEMPTION.**

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

12 **SEC. 202. COMPETITION FROM CABLE SYSTEMS.**

13 (a) DEFINITION OF CABLE SERVICE.—Section
14 602(6)(B) of the Communications Act of 1934 (47 U.S.C.
15 522(6)(B)) is amended by inserting “or use” after “the
16 selection”.

17 (b) CLUSTERING.—Section 613 of the Communica-
18 tions Act of 1934 (47 U.S.C. 533) is amended by adding
19 at the end the following new subsection:

20 “(i) ACQUISITION OF CABLE SYSTEMS.—The Com-
21 mission may not require divestiture of, or restrict or pre-
22 vent the acquisition of, an ownership interest in a cable
23 system by any person based in whole or in part on the
24 geographic location of such cable system.”.

1 (c) EQUIPMENT.—Section 623(a) of the Communica-
2 tions Act of 1934 (47 U.S.C. 543(a)) is amended—

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

5 (2) by inserting after paragraph (2) the follow-
6 ing new paragraph:

7 “(3) EQUIPMENT.—If the Commission finds
8 that a cable system is subject to effective competi-
9 tion under subparagraph (D) of subsection (l)(1),
10 the rates for equipment, installations, and connec-
11 tions for additional television receivers (other than
12 equipment, installations, and connections furnished
13 by such system to subscribers who receive only a
14 rate regulated basic service tier) shall not be subject
15 to regulation by the Commission or by a State or
16 franchising authority. If the Commission finds that
17 a cable system is subject to effective competition
18 under subparagraph (A), (B), or (C) of subsection
19 (l)(1), the rates for any equipment, installations, and
20 connections furnished by such system to any sub-
21 scriber shall not be subject to regulation by the
22 Commission, or by a State or franchising authority.
23 No Federal agency, State, or franchising authority
24 may establish the price or rate for the installation,
25 sale, or lease of any equipment furnished to any sub-

1 scriber by a cable system solely in connection with
2 video programming offered on a per channel or per
3 program basis.”.

4 (d) LIMITATION ON BASIC TIER RATE INCREASES;
5 SCOPE OF REVIEW.—Section 623(a) of the Communica-
6 tions Act of 1934 (47 U.S.C. 543(a)) is further amended
7 by adding at the end the following new paragraph:

8 “(8) LIMITATION ON BASIC TIER RATE IN-
9 CREASES; SCOPE OF REVIEW.—A cable operator may
10 not increase its basic service tier rate more than
11 once every 6 months. Such increase may be imple-
12 mented, using any reasonable billing or proration
13 method, 30 days after providing notice to subscrib-
14 ers and the appropriate regulatory authority. The
15 rate resulting from such increase shall be deemed
16 reasonable and shall not be subject to reduction or
17 refund if the franchising authority or the Commis-
18 sion, as appropriate, does not complete its review
19 and issue a final order within 90 days after imple-
20 mentation of such increase. The review by the fran-
21 chising authority or the Commission of any future
22 increase in such rate shall be limited to the incre-
23 mental change in such rate effected by such in-
24 crease.”.

1 (e) NATIONAL INFORMATION INFRASTRUCTURE DE-
2 VELOPMENT.—Section 623(a) of the Communications Act
3 of 1934 (47 U.S.C. 543) is further amended by adding
4 at the end the following new paragraph:

5 “(9) NATIONAL INFORMATION INFRASTRUC-
6 TURE.—

7 “(A) PURPOSE.—It is the purpose of this
8 paragraph to—

9 “(i) promote the development of the
10 National Information Infrastructure;

11 “(ii) enhance the competitiveness of
12 the National Information Infrastructure by
13 ensuring that cable operators have incen-
14 tives comparable to other industries to de-
15 velop such infrastructure; and

16 “(iii) encourage the rapid deployment
17 of digital technology necessary to the de-
18 velopment of the National Information In-
19 frastructure.

20 “(B) AGGREGATION OF EQUIPMENT
21 COSTS.—The Commission shall allow cable op-
22 erators, pursuant to any rules promulgated
23 under subsection (b)(3), to aggregate, on a
24 franchise, system, regional, or company level,
25 their equipment costs into broad categories,

1 such as converter boxes, regardless of the vary-
2 ing levels of functionality of the equipment
3 within each such broad category. Such aggrega-
4 tion shall not be permitted with respect to
5 equipment used by subscribers who receive only
6 a rate regulated service tier.

7 “(C) REVISION TO COMMISSION RULES;
8 FORMS.—Within 90 days of the date of enact-
9 ment of this paragraph, the Commission shall
10 issue revisions to the appropriate rules and
11 forms necessary to implement subparagraph
12 (B).”.

13 (f) COMPLAINT THRESHOLD; SCOPE OF COMMISSION
14 REVIEW.—Section 623(c) of the Communications Act of
15 1934 (47 U.S.C. 543(c)) is amended—

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

18 “(3) REVIEW OF COMPLAINTS.—

19 “(A) COMPLAINT THRESHOLD.—The Com-
20 mission shall have the authority to review any
21 increase in the rates for cable programming
22 services implemented after the date of enact-
23 ment of the Communications Act of 1995 only
24 if, within 90 days after such increase becomes
25 effective, at least 10 subscribers to such serv-

1 ices or 5 percent of the subscribers to such
2 services, whichever is greater, file separate, in-
3 dividual complaints against such increase with
4 the Commission in accordance with the require-
5 ments established under paragraph (1)(B).

6 “(B) TIME PERIOD FOR COMMISSION RE-
7 VIEW.—The Commission shall complete its re-
8 view of any such increase and issue a final
9 order within 90 days after it receives the num-
10 ber of complaints required by subparagraph
11 (A).

12 “(4) TREATMENT OF PENDING CABLE PRO-
13 GRAMMING SERVICES COMPLAINTS.—Upon enact-
14 ment of the Communications Act of 1995, the Com-
15 mission shall suspend the processing of all pending
16 cable programming services rate complaints. These
17 pending complaints shall be counted by the Commis-
18 sion toward the complaint threshold specified in
19 paragraph (3)(A). Parties shall have an additional
20 90 days from the date of enactment of such Act to
21 file complaints about prior increases in cable pro-
22 gramming services rates if such rate increases were
23 already subject to a valid, pending complaint on the
24 date of enactment. At the expiration of such 90-day
25 period, the Commission shall dismiss all pending

1 cable programming services rate cases for which the
2 complaint threshold has not been met, and may re-
3 sume its review of those pending cable programming
4 services rate cases for which the complaint threshold
5 has been met, which review shall be completed with-
6 in 180 days after the date of the Communications
7 Act of 1995.

8 “(5) SCOPE OF COMMISSION REVIEW.—A cable
9 programming services rate shall be deemed not un-
10 reasonable and shall not be subject to reduction or
11 refund if—

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

15 “(B) such rate was the subject of a com-
16 plaint that was dismissed pursuant to para-
17 graph (4);

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

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

24 “(E) the Commission issues an order find-
25 ing such rate to be not unreasonable.

1 The review by the Commission of any future in-
2 crease in such rate shall be limited to the incremen-
3 tal change in such rate effected by such increase.”;

4 (2) in paragraph (1)(B) by striking “obtain
5 Commission consideration and resolution of whether
6 the rate in question is unreasonable” and inserting
7 “be counted toward the complaint threshold speci-
8 fied in paragraph (3)(A)”;

9 (3) in paragraph (1)(C) by striking “such com-
10 plaint” and inserting in lieu thereof “the first com-
11 plaint”.

12 (g) UNIFORM RATE STRUCTURE.—Section 623(d) of
13 the Communications Act of 1934 (47 U.S.C. 543(d)) is
14 amended to read as follows:

15 “(d) UNIFORM RATE STRUCTURE.—A cable operator
16 shall have a uniform rate structure throughout its fran-
17 chise area for the provision of cable services that are regu-
18 lated by the Commission or the franchising authority.
19 Bulk discounts to multiple dwelling units shall not be sub-
20 ject to this requirement.”.

21 (h) EFFECTIVE COMPETITION.—Section 623(l)(1) of
22 the Communications Act of 1934 (47 U.S.C. 543(l)(1))
23 is amended—

24 (1) in subparagraph (B)(ii)—

1 (A) by inserting “all” before “multichannel
2 video programming distributors”; and

3 (B) by striking “or” at the end thereof;

4 (2) by striking the period at the end of sub-
5 paragraph (C) and inserting “; or”; and

6 (3) by adding at the end the following:

7 “(D) with respect to cable programming
8 services and subscriber equipment, installations,
9 and connections for additional television receiv-
10 ers (other than equipment, installations, and
11 connections furnished to subscribers who receive
12 only a rate regulated basic service tier)—

13 “(i) a common carrier has been au-
14 thorized by the Commission to construct
15 facilities to provide video dialtone service
16 in a cable operator’s franchise area;

17 “(ii) a common carrier has been au-
18 thorized by the Commission or pursuant to
19 a franchise to provide video programming
20 directly to subscribers in the franchise
21 area; or

22 “(iii) the Commission has completed
23 all actions necessary (including any recon-
24 sideration) to prescribe regulations pursu-

1 ant to section 653(b)(1) relating to video
2 platforms.”.

3 (i) RELIEF FOR CABLE OPERATORS.—Section 623 of
4 the Communications Act of 1934 (47 U.S.C. 543) is
5 amended by adding at the end the following new sub-
6 section:

7 “(m) SMALL CABLE OPERATORS.—

8 “(1) SMALL CABLE OPERATOR RELIEF.—A
9 small cable operator shall not be subject to sub-
10 sections (a), (b), (c), or (d) in any franchise area
11 with respect to the provision of cable programming
12 services, or a basic service tier where such tier was
13 the only tier offered in such area on December 31,
14 1994.

15 “(2) DEFINITION OF SMALL CABLE OPERA-
16 TOR.—For purposes of this subsection, ‘small cable
17 operator’ means a cable operator that—

18 “(A) directly or through an affiliate, serves
19 in the aggregate fewer than 1 percent of all
20 cable subscribers in the United States; and

21 “(B) is not affiliated with any entity or en-
22 tities whose gross annual revenues in the aggre-
23 gate exceed \$250,000,000.”.

24 (j) TECHNICAL STANDARDS.—Section 624(e) of the
25 Communications Act of 1934 (47 U.S.C. 544(e)) is

1 amended by striking the last two sentences and inserting
2 the following: “No State or franchising authority may pro-
3 hibit, condition, or restrict a cable system’s use of any type
4 of subscriber equipment or any transmission technology.”.

5 (k) CABLE SECURITY SYSTEMS.—Section 624A(b)(2)
6 of the Communications Act of 1934 (47 U.S.C.
7 544a(b)(2)) is amended to read as follows:

8 “(2) CABLE SECURITY SYSTEMS.—No federal
9 agency, State, or franchising authority may prohibit
10 or limit a cable operator’s use of any security system
11 (including scrambling, encryption, traps, and inter-
12 diction), except that the Commission may prohibit or
13 limit the use of any such system solely with respect
14 to the delivery of a basic service tier that, as of Jan-
15 uary 1, 1995, contained only the signals and pro-
16 gramming specified in section 623(b)(7)(A), unless
17 the use of such system is necessary to prevent the
18 unauthorized reception of such tier.”.

19 (l) RETIERING OF BASIC TIER SERVICES.—Section
20 625(d) of the Communications Act of 1934 (47 U.S.C.
21 543(d)) is amended by adding at the end the following
22 new sentence: “Any signals or services carried on the basic
23 service tier but not required under section 623(b)(7)(A)
24 may be moved from the basic service tier at the operator’s
25 sole discretion, except to the extent that the removal of

1 such a signal or service from the basic service tier is pro-
2 hibited by contract. The movement of such signals or serv-
3 ices to an unregulated package of services shall not subject
4 such package to regulation.”.

5 (m) SUBSCRIBER NOTICE.—Section 632 of the Com-
6 munications Act of 1934 (47 U.S.C. 552) is amended—

7 (1) by redesignating subsection (c) as sub-
8 section (d); and

9 (2) by inserting after subsection (b) the follow-
10 ing new subsection:

11 “(c) SUBSCRIBER NOTICE.—A cable operator may
12 provide notice of service and rate changes to subscribers
13 using any reasonable written means at its sole discretion.
14 Notwithstanding section 623(b)(6) or any other provision
15 of this Act, a cable operator shall not be required to pro-
16 vide prior notice of any rate change that is the result of
17 a regulatory fee, franchise fee, or any other fee, tax, as-
18 sessment, or charge of any kind imposed by any Federal
19 agency, State, or franchising authority on the transaction
20 between the operators and subscriber.”.

21 **SEC. 203. COMPETITIVE AVAILABILITY OF NAVIGATION DE-**
22 **VICES.**

23 Title VII of the Communications Act of 1934 is
24 amended by adding at the end the following new section:

1 **“SEC. 713. COMPETITIVE AVAILABILITY OF NAVIGATION**
2 **DEVICES.**

3 “(a) DEFINITIONS.—As used in this section:

4 “(1) The term ‘telecommunications subscription
5 service’ means the provision directly to subscribers
6 of video, voice, or data services for which a sub-
7 scriber charge is made.

8 “(2) The term ‘telecommunications system’ or a
9 ‘telecommunications system operator’ means a pro-
10 vider of telecommunications subscription service.

11 “(b) COMPETITIVE CONSUMER AVAILABILITY OF
12 CUSTOMER PREMISES EQUIPMENT.—The Commission
13 shall adopt regulations to assure competitive availability,
14 to consumers of telecommunications subscription services,
15 of converter boxes, interactive communications devices,
16 and other customer premises equipment from manufactur-
17 ers, retailers, and other vendors not affiliated with any
18 telecommunications system operator. Such regulations
19 shall take into account the needs of owners and distribu-
20 tors of video programming and information services to en-
21 sure system and signal security and prevent theft of serv-
22 ice. Such regulations shall not prohibit any telecommuni-
23 cations system operator from also offering devices and
24 customer premises equipment to consumers, provided that
25 the system operator’s charges to consumers for such de-
26 vices and equipment are separately stated and not bundled

1 with or subsidized by charges for any telecommunications
2 subscription service.

3 “(c) WAIVER FOR NEW NETWORK SERVICES.—The
4 Commission may waive a regulation adopted pursuant to
5 subsection (b) for a limited time upon an appropriate
6 showing by a telecommunications system operator that
7 such waiver is necessary to the introduction of a new tele-
8 communications subscription service.

9 “(d) SUNSET.—The regulations adopted pursuant to
10 this section shall be terminated when the Commission de-
11 termines that there exists a fully competitive market for
12 the acquisition of converter boxes, interactive communica-
13 tions devices, and other customer premises equipment.”.

14 **SEC. 204. VIDEO PROGRAMMING ACCESSIBILITY.**

15 (a) COMMISSION INQUIRY.—Within 180 days after
16 the date of enactment of this section, the Federal Commu-
17 nications Commission shall complete an inquiry to ascer-
18 tain the level at which video programming is closed cap-
19 tioned. Such inquiry shall examine the extent to which ex-
20 isting or previously published programming is closed cap-
21 tioned, the size of the video programming provider or pro-
22 gramming owner providing closed captioning, the size of
23 the market served, the relative audience shares achieved,
24 or any other related factors. The Commission shall submit
25 to the Congress a report on the results of such inquiry.

1 (b) ACCOUNTABILITY CRITERIA.—Within 18 months
2 after the date of enactment, the Commission shall pre-
3 scribe such regulations as are necessary to implement this
4 section. Such regulations shall ensure that—

5 (1) video programming first published or exhib-
6 ited after the effective date of such regulations is
7 fully accessible through the provision of closed cap-
8 tions, except as provided in subsection (d); and

9 (2) video programming providers or owners
10 maximize the accessibility of video programming
11 first published or exhibited prior to the effective date
12 of such regulations through the provision of closed
13 captions, except as provided in subsection (d).

14 (c) DEADLINES FOR CAPTIONING.—Such regulations
15 shall include an appropriate schedule of deadlines for the
16 provision of closed captioning of video programming.

17 (d) EXEMPTIONS.—Notwithstanding subsection
18 (b)—

19 (1) the Commission may exempt by regulation
20 programs, classes of programs, or services for which
21 the Commission has determined that the provision of
22 closed captioning would be economically burdensome
23 to the provider or owner of such programming;

24 (2) a provider of video programming or the
25 owner of any program carried by the provider shall

1 not be obligated to supply closed captions if such ac-
2 tion would be inconsistent with contracts in effect on
3 the date of enactment of this Act, except that noth-
4 ing in this section shall be construed to relieve a
5 video programming provider of its obligations to pro-
6 vide services required by Federal law; and

7 (3) a provider of video programming or pro-
8 gram owner may petition the Commission for an ex-
9 emption from the requirements of this section, and
10 the Commission may grant such petition upon a
11 showing that the requirements contained in this sec-
12 tion would result in an undue burden.

13 (e) UNDUE BURDEN.—The term ‘undue burden’
14 means significant difficulty or expense. In determining
15 whether the closed captions necessary to comply with the
16 requirements of this paragraph would result in an undue
17 economic burden, the factors to be considered include—

18 (1) the nature and cost of the closed captions
19 for the programming;

20 (2) the impact on the operation of the provider
21 or program owner;

22 (3) the financial resources of the provider or
23 program owner; and

24 (4) the type of operations of the provider or
25 program owner.

1 (f) VIDEO DESCRIPTIONS INQUIRY.—Within 6
2 months after the date of enactment of this Act, the Com-
3 mission shall commence an inquiry to examine the use of
4 video descriptions on video programming in order to en-
5 sure the accessibility of video programming to persons
6 with visual impairments, and report to Congress on its
7 findings. The Commission’s report shall assess appro-
8 priate methods and schedules for phasing video descrip-
9 tions into the marketplace, technical and quality standards
10 for video descriptions, a definition of programming for
11 which video descriptions would apply, and other technical
12 and legal issues that the Commission deems appropriate.
13 Following the completion of such inquiry, the Commission
14 may adopt regulation it deems necessary to promote the
15 accessibility of video programming to persons with visual
16 impairments.

17 (g) VIDEO DESCRIPTION.—For purposes of this sec-
18 tion, “video description” means the insertion of audio nar-
19 rated descriptions of a television program’s key visual ele-
20 ments into natural pauses between the program’s dia-
21 logue.

22 **SEC. 205. TECHNICAL AMENDMENTS.**

23 (a) RETRANSMISSION.—Section 325(b)(2)(D) of the
24 Communications Act of 1934 (47 U.S.C. 325(b)(2)(D))
25 is amended to read as follows:

1 “(D) retransmission by a cable operator or
2 other multichannel video programming distributor of
3 the signal of a superstation if (i) the customers
4 served by the cable operator or other multichannel
5 video programming distributor reside outside the
6 originating station’s television market, as defined by
7 the Commission for purposes of section
8 614(h)(1)(C); (ii) such signal was obtained from a
9 satellite carrier or terrestrial microwave common
10 carrier; and (iii) and the origination station was a
11 superstation on May 1, 1991.”.

12 (b) MARKET DETERMINATIONS.—Section
13 614(h)(1)(C)(i) of the Communications Act of 1934 (47
14 U.S.C. 534(h)(1)(C)(i)) is amended by striking out “in the
15 manner provided in section 73.3555(d)(3)(i) of title 47,
16 Code of Federal Regulations, as in effect on May 1,
17 1991,” and inserting “by the Commission by regulation
18 or order using, where available, commercial publications
19 which delineate television markets based on viewing
20 patterns,”.

1 **TITLE III—BROADCAST COMMU-**
2 **NICATIONS COMPETITIVE-**
3 **NESS**

4 **SEC. 301. BROADCASTER SPECTRUM FLEXIBILITY.**

5 Title III of the Communications Act of 1934 is
6 amended by inserting after section 335 (47 U.S.C. 335)
7 the following new section:

8 **“SEC. 336. BROADCAST SPECTRUM FLEXIBILITY.**

9 “(a) COMMISSION ACTION.—If the Commission de-
10 termines to issue additional licenses for advanced tele-
11 vision services, the Commission shall—

12 “(1) limit the initial eligibility for such licenses
13 to persons that, as of the date of such issuance, are
14 licensed to operate a television broadcast station or
15 hold a permit to construct such a station (or both);
16 and

17 “(2) adopt regulations that allow such licensees
18 or permittees to offer such ancillary or supple-
19 mentary services on designated frequencies as may
20 be consistent with the public interest, convenience,
21 and necessity.

22 “(b) CONTENTS OF REGULATIONS.—In prescribing
23 the regulations required by subsection (a), the Commission
24 shall—

1 “(1) only permit such licensee or permittee to
2 offer ancillary or supplementary services if the use
3 of a designated frequency for such services is con-
4 sistent with the technology or method designated by
5 the Commission for the provision of advanced tele-
6 vision services;

7 “(2) limit the broadcasting of ancillary or sup-
8 plementary services on designated frequencies so as
9 to avoid derogation of any advanced television serv-
10 ices, including high definition television broadcasts,
11 that the Commission may require using such fre-
12 quencies;

13 “(3) apply to any other ancillary or supple-
14 mentary service such of the Commission’s regula-
15 tions as are applicable to the offering of analogous
16 services by any other person;

17 “(4) adopt such technical and other require-
18 ments as may be necessary or appropriate to assure
19 the quality of the signal used to provide advanced
20 television services, and may adopt regulations that
21 stipulate the minimum number of hours per day that
22 such signal must be transmitted; and

23 “(5) prescribe such other regulations as may be
24 necessary for the protection of the public interest,
25 convenience, and necessity.

1 “(c) RECOVERY OF LICENSE.—

2 “(1) CONDITIONS REQUIRED.—If the Commis-
3 sion grants a license for advanced television services
4 to a person that, as of the date of such issuance, is
5 licensed to operate a television broadcast station or
6 holds a permit to construct such a station (or both),
7 the Commission shall, as a condition of such license,
8 require that, upon a determination by the Commis-
9 sion pursuant to the regulations prescribed under
10 paragraph (2), either the additional license or the
11 original license held by the licensee be surrendered
12 to the Commission in accordance with such regula-
13 tions for reallocation or reassignment (or both) pur-
14 suant to Commission regulation.

15 “(2) CRITERIA.—The Commission shall pre-
16 scribe criteria for rendering determinations concern-
17 ing license surrender pursuant to license conditions
18 required by paragraph (1). Such criteria shall—

19 “(A) require such determinations to be
20 based on whether the substantial majority of
21 the public have obtained television receivers
22 that are capable of receiving advanced television
23 services; and

24 “(B) not require the cessation of the
25 broadcasting under either the original or addi-

1 tional license if such cessation would render the
2 television receivers of a substantial portion of
3 the public useless, or otherwise cause undue
4 burdens on the owners of such television receivers.
5

6 “(d) FEES.—

7 “(1) SERVICES TO WHICH FEES APPLY.—If the
8 regulations prescribed pursuant to subsection (a)
9 permit a licensee to offer ancillary or supplementary
10 services on a designated frequency—

11 “(A) for which the payment of a subscrip-
12 tion fee is required in order to receive such
13 services, or

14 “(B) for which the licensee directly or indi-
15 rectly receives compensation from a third party
16 in return for transmitting material furnished by
17 such third party (other than commercial adver-
18 tisements used to support broadcasting for
19 which a subscription fee is not required),

20 the Commission shall establish a program to assess
21 and collect from the licensee for such designated fre-
22 quency an annual fee or other schedule or method
23 of payment that promotes the objectives described in
24 subparagraphs (A) and (B) of paragraph (2).

1 “(2) COLLECTION OF FEES.—The program re-
2 quired by paragraph (1) shall—

3 “(A) be designed (i) to recover for the pub-
4 lic a portion of the value of the public spectrum
5 resource made available for such commercial
6 use, and (ii) to avoid unjust enrichment
7 through the method employed to permit such
8 uses of that resource;

9 “(B) recover for the public an amount
10 that, to the extent feasible, equals but does not
11 exceed (over the term of the license) the
12 amount that would have been recovered had
13 such services been licensed pursuant to the pro-
14 visions of section 309(j) of this Act and the
15 Commission’s regulations thereunder; and

16 “(C) be adjusted by the Commission from
17 time to time in order to continue to comply with
18 the requirements of this paragraph.

19 “(3) TREATMENT OF REVENUES.—

20 “(A) GENERAL RULE.—Except as provided
21 in subparagraph (B), all proceeds obtained pur-
22 suant to the regulations required by this sub-
23 section shall be deposited in the Treasury in ac-
24 cordance with chapter 33 of title 31, United
25 States Code.

1 “(B) RETENTION OF REVENUES.—Not-
2 withstanding subparagraph (A), the salaries
3 and expenses account of the Commission shall
4 retain as an offsetting collection such sums as
5 may be necessary from such proceeds for the
6 costs of developing and implementing the pro-
7 gram required by this section and regulating
8 and supervising advanced television services.
9 Such offsetting collections shall be available for
10 obligation subject to the terms and conditions
11 of the receiving appropriations account, and
12 shall be deposited in such accounts on a quar-
13 terly basis.

14 “(4) REPORT.—Within 5 years after the date of
15 the enactment of this section, the Commission shall
16 report to the Congress on the implementation of the
17 program required by this subsection, and shall annu-
18 ally thereafter advise the Congress on the amounts
19 collected pursuant to such program.

20 “(e) EVALUATION.—Within 10 years after the date
21 the Commission first issues additional licenses for ad-
22 vanced television services, the Commission shall conduct
23 an evaluation of the advanced television services program.
24 Such evaluation shall include—

1 “(1) an assessment of the willingness of con-
2 sumers to purchase the television receivers necessary
3 to receive broadcasts of advanced television services;

4 “(2) an assessment of alternative uses, includ-
5 ing public safety use, of the frequencies used for
6 such broadcasts; and

7 “(3) the extent to which the Commission has
8 been or will be able to reduce the amount of spec-
9 trum assigned to licensees in order to issue addi-
10 tional licenses for the provision of advanced tele-
11 vision services.

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

13 “(1) ADVANCED TELEVISION SERVICES.—The
14 term ‘advanced television services’ means television
15 services provided using digital or other advanced
16 technology to enhance audio quality and video reso-
17 lution, as further defined in the opinion, report, and
18 order of the Commission entitled ‘Advanced Tele-
19 vision Systems and Their Impact Upon the Existing
20 Television Broadcast Service’, MM Docket 87–268,
21 adopted September 17, 1992, and successor proceed-
22 ings.

23 “(2) DESIGNATED FREQUENCIES.—The term
24 ‘designated frequency’ means each of the frequencies

1 designated by the Commission for licenses for ad-
2 vanced television services.

3 “(3) HIGH DEFINITION TELEVISION.—The term
4 ‘high definition television’ refers to systems that
5 offer approximately twice the vertical and horizontal
6 resolution of receivers generally available on the date
7 of enactment of this section, as further defined in
8 the proceedings described in paragraph (1) of this
9 subsection.”.

10 **SEC. 302. TERM OF LICENSES.**

11 Section 307(c) of the Communications Act of 1934
12 (47 U.S.C. 307(c)) is amended to read as follows:

13 “(c) TERMS OF LICENSES.—

14 “(1) INITIAL AND RENEWAL LICENSES.—Each
15 license granted for the operation of a broadcasting
16 station shall be for a term of not to exceed seven
17 years. Upon application therefor, a renewal of such
18 license may be granted from time to time for a term
19 of not to exceed seven years from the date of expira-
20 tion of the preceding license, if the Commission finds
21 that public interest, convenience, and necessity
22 would be served thereby. Consistent with the fore-
23 going provisions of this subsection, the Commission
24 may by rule prescribe the period or periods for
25 which licenses shall be granted and renewed for par-

1 particular classes of stations, but the Commission may
2 not adopt or follow any rule which would preclude it,
3 in any case involving a station of a particular class,
4 from granting or renewing a license for a shorter pe-
5 riod than that prescribed for stations of such class
6 if, in its judgment, public interest, convenience, or
7 necessity would be served by such action.

8 “(2) MATERIALS IN APPLICATION.—In order to
9 expedite action on applications for renewal of broad-
10 casting station licenses and in order to avoid need-
11 less expense to applicants for such renewals, the
12 Commission shall not require any such applicant to
13 file any information which previously has been fur-
14 nished to the Commission or which is not directly
15 material to the considerations that affect the grant-
16 ing or denial of such application, but the Commis-
17 sion may require any new or additional facts it
18 deems necessary to make its findings.

19 “(3) CONTINUATION PENDING DECISION.—
20 Pending any hearing and final decision on such an
21 application and the disposition of any petition for re-
22 hearing pursuant to section 405, the Commission
23 shall continue such license in effect.”.

1 **SEC. 303. BROADCAST LICENSE RENEWAL PROCEDURES.**

2 (a) AMENDMENT.—Section 309 of the Communica-
3 tions Act of 1934 (47 U.S.C. 309) is amended by adding
4 at the end thereof the following new subsection:

5 “(k) BROADCAST STATION RENEWAL PROCE-
6 DURES.—

7 “(1) STANDARDS FOR RENEWAL.—If the li-
8 censee of a broadcast station submits an application
9 to the Commission for renewal of such license, the
10 Commission shall grant the application if it finds,
11 with respect to that station, during the preceding
12 term of its license—

13 “(A) the station has served the public in-
14 terest, convenience, and necessity;

15 “(B) there have been no serious violations
16 by the licensee of this Act or the rules and reg-
17 ulations of the Commission; and

18 “(C) there have been no other violations by
19 the licensee of this Act or the rules and regula-
20 tions of the Commission which, taken together,
21 would constitute a pattern of abuse.

22 “(2) CONSEQUENCE OF FAILURE TO MEET
23 STANDARD.—If any licensee of a broadcast station
24 fails to meet the requirements of this subsection, the
25 Commission may deny the application for renewal in
26 accordance with paragraph (3), or grant such appli-

1 cation on terms and conditions as are appropriate,
2 including renewal for a term less than the maximum
3 otherwise permitted.

4 “(3) STANDARDS FOR DENIAL.—If the Commis-
5 sion determines, after notice and opportunity for a
6 hearing as provided in subsection (e), that a licensee
7 has failed to meet the requirements specified in
8 paragraph (1) and that no mitigating factors justify
9 the imposition of lesser sanctions, the Commission
10 shall—

11 “(A) issue an order denying the renewal
12 application filed by such licensee under section
13 308; and

14 “(B) only thereafter accept and consider
15 such applications for a construction permit as
16 may be filed under section 308 specifying the
17 channel or broadcasting facilities of the former
18 licensee.

19 “(4) COMPETITOR CONSIDERATION PROHIB-
20 ITED.—In making the determinations specified in
21 paragraph (1) or (2), the Commission shall not con-
22 sider whether the public interest, convenience, and
23 necessity might be served by the grant of a license
24 to a person other than the renewal applicant.”.

1 (b) CONFORMING AMENDMENT.—Section 309(d) of
2 the Communications Act of 1934 (47 U.S.C. 309(d)) is
3 amended by inserting after “with subsection (a)” each
4 place such term appears the following: “(or subsection (k)
5 in the case of renewal of any broadcast station license)”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to any application for renewal filed
8 on or after May 31, 1995.

9 **SEC. 304. EXCLUSIVE FEDERAL JURISDICTION OVER DI-**
10 **RECT BROADCAST SATELLITE SERVICE.**

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

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

16 **SEC. 305. AUTOMATED SHIP DISTRESS AND SAFETY SYS-**
17 **TEMS.**

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

1 **SEC. 306. RESTRICTIONS ON OVER-THE-AIR RECEPTION DE-**
2 **VICES.**

3 Within 180 days after the enactment of this Act, the
4 Commission shall, pursuant to section 303, promulgate
5 regulations to prohibit restrictions that inhibit a viewer's
6 ability to receive video programming services through sig-
7 nal receiving devices designed for off-the-air reception of
8 television broadcast signals.

9 **SEC. 307. DBS SIGNAL SECURITY.**

10 Section 705(e)(4) of the Communications Act of
11 1934 (47 U.S.C. 605(e)) is amended by inserting after
12 "satellite cable programming" the following: "or program-
13 ming of a licensee in the direct broadcast satellite service".

14 **TITLE IV—EFFECT ON OTHER**
15 **LAWS**

16 **SEC. 401. RELATIONSHIP TO OTHER LAWS.**

17 (a) MODIFICATION OF FINAL JUDGMENT.—Parts II
18 and III of title II of the Communications Act of 1934 (as
19 added by this Act) shall supersede the Modification of
20 Final Judgment, except that such part shall not affect—

21 (1) section I of the Modification of Final Judg-
22 ment, relating to AT&T reorganization,

23 (2) section II(A) (including appendix B) and
24 II(B) of the Modification of Final Judgment, relat-
25 ing to equal access and nondiscrimination,

1 (3) section IV(F) and IV(I) of the Modification
2 of Final Judgment, with respect to the requirements
3 included in the definitions of “exchange access” and
4 “information access”,

5 (4) section VIII(B) of the Modification of Final
6 Judgment, relating to printed advertising directories,

7 (5) section VIII(E) of the Modification of Final
8 Judgment, relating to notice to customers of AT&T,

9 (6) section VIII(F) of the Modification of Final
10 Judgment, relating to less than equal exchange ac-
11 cess,

12 (7) section VIII(G) of the Modification of Final
13 Judgment, relating to transfer of AT&T assets, in-
14 cluding all exceptions granted thereunder before the
15 date of the enactment of this Act, and

16 (8) with respect to the parts of the Modification
17 of Final Judgment described in paragraphs (1)
18 through (7)—

19 (A) section III of the Modification of Final
20 Judgment, relating to applicability and effect,

21 (B) section IV of the Modification of Final
22 Judgment, relating to definitions,

23 (C) section V of the Modification of Final
24 Judgment, relating to compliance,

1 (D) section VI of the Modification of Final
2 Judgment, relating to visitorial provisions,

3 (E) section VII of the Modification of
4 Final Judgment, relating to retention of juris-
5 diction, and

6 (F) section VIII(I) of the Modification of
7 Final Judgment, relating to the court's sua
8 sponte authority.

9 (b) ANTITRUST LAWS.—Nothing in this Act shall be
10 construed to modify, impair, or supersede the applicability
11 of any of the antitrust laws.

12 (c) FEDERAL, STATE, AND LOCAL LAW.—(1) Except
13 as provided in paragraph (2), parts II and III of title II
14 of the Communications Act of 1934 shall not be construed
15 to modify, impair, or supersede Federal, State, or local
16 law unless expressly so provided in such part.

17 (2) Parts II and III of title II of the Communications
18 Act of 1934 shall supersede State and local law to the
19 extent that such law would impair or prevent the operation
20 of such part.

21 (d) TERMINATION.—The provisions of the GTE con-
22 sent decree shall cease to be effective on the date of enact-
23 ment of this Act. For purposes of this subsection, the term
24 “GTE consent decree” means the order entered on De-
25 cember 21, 1984 (as restated on January 11, 1985), in

1 United States v. GTE Corporation, Civil Action No. 83–
2 1298, in the United States District Court for the District
3 of Columbia, and includes any judgment or order with re-
4 spect to such action entered on or after December 21,
5 1984.

6 (e) INAPPLICABILITY OF FINAL JUDGMENT TO
7 WIRELESS SUCCESSORS.—No person shall be subject to
8 the provisions of the Modification of Final Judgment by
9 reason of having acquired wireless exchange assets or op-
10 erations previously owned by a Bell operating company or
11 an affiliate of a Bell operating company.

12 (f) ANTITRUST LAWS.—As used in this section, the
13 term “antitrust laws” has the meaning given it in sub-
14 section (a) of the first section of the Clayton Act (15
15 U.S.C. 12(a)), except that such term includes the Act of
16 June 19, 1936 (49 Stat. 1526; 15 U.S.C. 13 et seq.), com-
17 monly known as the Robinson Patman Act, and section
18 5 of the Federal Trade Commission Act (15 U.S.C. 45)
19 to the extent that such section 5 applies to unfair methods
20 of competition.

21 **SEC. 402. PREEMPTION OF LOCAL TAXATION WITH RE-**
22 **SPECT TO DBS SERVICES.**

23 (a) PREEMPTION.—A provider of direct-to-home sat-
24 ellite service, or its agent or representative for the sale
25 or distribution of direct-to-home satellite services, shall be

1 exempt from the collection or remittance, or both, of any
2 tax or fee, as defined by subsection (b)(4), imposed by any
3 local taxing jurisdiction with respect to the provision of
4 direct broadcast satellite services. Nothing in this section
5 shall be construed to exempt from collection or remittance
6 any tax or fee on the sale of equipment.

7 (b) DEFINITIONS.—For the purposes of this sec-
8 tion—

9 (1) DIRECT BROADCAST SATELLITE SERVICE.—

10 The term “direct-to-home satellite service” means
11 the transmission or broadcasting by satellite of pro-
12 gramming directly to the subscribers’ premises with-
13 out the use of ground receiving or distribution equip-
14 ment, except at the subscribers’ premises or in the
15 uplink process to the satellite.

16 (2) DIRECT-TO-HOME SATELLITE SERVICE PRO-
17 VIDER.—For purposes of this section, a “provider of
18 direct-to-home satellite service” means a person who
19 transmits or broadcasts direct-to-home satellite serv-
20 ices.

21 (3) LOCAL TAXING JURISDICTION.—The term
22 “local taxing jurisdiction” means any municipality,
23 city, county, township, parish, transportation dis-
24 trict, or assessment jurisdiction, or any other local

1 jurisdiction with the authority to impose a tax or
2 fee.

3 (4) TAX OR FEE.—The terms “tax” and “fee”
4 mean any local sales tax, local use tax, local intangi-
5 ble tax, local income tax, business license tax, utility
6 tax, privilege tax, gross receipts tax, excise tax, fran-
7 chise fees, local telecommunications tax, or any other
8 tax, license, or fee that is imposed for the privilege
9 of doing business, regulating, or raising revenue for
10 a local taxing jurisdiction.

11 (c) EFFECTIVE DATE.—This section shall be effective
12 as of June 1, 1994.

13 **TITLE V—DEFINITIONS**

14 **SEC. 501. DEFINITIONS.**

15 (a) ADDITIONAL DEFINITIONS.—Section 3 of the Act
16 (47 U.S.C. 153) is amended—

17 (1) in subsection (r)—

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

19 (B) by inserting before the period at the
20 end the following: “, or (B) service provided
21 through a system of switches, transmission
22 equipment, or other facilities (or combination
23 thereof) by which a subscriber can originate
24 and terminate a telecommunications service

1 within a State but which does not result in the
2 subscriber incurring a telephone toll charge”;

3 (2) by indenting such paragraphs 2 em spaces;

4 and

5 (3) by adding at the end thereof the following:

6 “(35) AFFILIATE.—The term ‘affiliate’, when
7 used in relation to any person or entity, means an-
8 other person or entity who owns or controls, is
9 owned or controlled by, or is under common owner-
10 ship or control with, such person or entity.

11 “(36) BELL OPERATING COMPANY.—The term
12 ‘Bell operating company’ means—

13 “(A) Bell Telephone Company of Nevada,
14 Illinois Bell Telephone Company, Indiana Bell
15 Telephone Company, Incorporated, Michigan
16 Bell Telephone Company, New England Tele-
17 phone and Telegraph Company, New Jersey
18 Bell Telephone Company, New York Telephone
19 Company, U S West Communications Com-
20 pany, South Central Bell Telephone Company,
21 Southern Bell Telephone and Telegraph Com-
22 pany, Southwestern Bell Telephone Company,
23 The Bell Telephone Company of Pennsylvania,
24 The Chesapeake and Potomac Telephone Com-
25 pany, The Chesapeake and Potomac Telephone

1 Company of Maryland, The Chesapeake and
2 Potomac Telephone Company of Virginia, The
3 Chesapeake and Potomac Telephone Company
4 of West Virginia, The Diamond State Tele-
5 phone Company, The Ohio Bell Telephone
6 Company, The Pacific Telephone and Telegraph
7 Company, or Wisconsin Telephone Company;

8 “(B) any successor or assign of any such
9 company that provides telephone exchange serv-
10 ice.

11 “(37) CABLE SYSTEM.—The term ‘cable sys-
12 tem’ has the meaning given such term in section
13 602(7) of this Act.

14 “(38) CUSTOMER PREMISES EQUIPMENT.—The
15 term ‘customer premises equipment’ means equip-
16 ment employed on the premises of a person (other
17 than a carrier) to originate, route, or terminate tele-
18 communications.

19 “(39) DIALING PARITY.—The term ‘dialing par-
20 ity’ means that a person that is not an affiliated en-
21 terprise of a local exchange carrier is able to provide
22 telecommunications services in such a manner that
23 customers have the ability to route automatically,
24 without the use of any access code, their tele-
25 communications to the telecommunications services

1 provider of the customer's designation from among
2 2 or more telecommunications services providers (in-
3 cluding such local exchange carrier).

4 “(40) EXCHANGE ACCESS.—The term ‘ex-
5 change access’ means the offering of telephone ex-
6 change services or facilities for the purpose of the
7 origination or termination of interLATA services.

8 “(41) INFORMATION SERVICE.—The term ‘in-
9 formation service’ means the offering of a capability
10 for generating, acquiring, storing, transforming,
11 processing, retrieving, utilizing, or making available
12 information via telecommunications, and includes
13 electronic publishing, but does not include any use
14 of any such capability for the management, control,
15 or operation of a telecommunications system or the
16 management of a telecommunications service.

17 “(42) INTERLATA SERVICE.—The term
18 ‘interLATA service’ means telecommunications be-
19 tween a point located in a local access and transport
20 area and a point located outside such area.

21 “(43) LOCAL ACCESS AND TRANSPORT AREA.—
22 The term ‘local access and transport area’ or
23 ‘LATA’ means a contiguous geographic area—

24 “(A) established by a Bell operating com-
25 pany such that no exchange area includes

1 points within more than 1 metropolitan statis-
2 tical area, consolidated metropolitan statistical
3 area, or State, except as expressly permitted
4 under the Modification of Final Judgment be-
5 fore the date of the enactment of this Act; or

6 “(B) established or modified by a Bell op-
7 erating company after the date of enactment of
8 this paragraph and approved by the Commis-
9 sion.

10 “(44) LOCAL EXCHANGE CARRIER.—The term
11 ‘local exchange carrier’ means any person that is en-
12 gaged in the provision of telephone exchange service
13 or exchange access. Such term does not include a
14 person insofar as such person is engaged in the pro-
15 vision of a commercial mobile service under section
16 332(c), except to the extent that the Commission
17 finds that such service as provided by such person
18 in a State is a replacement for a substantial portion
19 of the wireline telephone exchange service within
20 such State.

21 “(45) MODIFICATION OF FINAL JUDGMENT.—
22 The term ‘Modification of Final Judgment’ means
23 the order entered August 24, 1982, in the antitrust
24 action styled United States v. Western Electric, Civil
25 Action No. 82–0192, in the United States District

1 Court for the District of Columbia, and includes any
2 judgment or order with respect to such action en-
3 tered on or after August 24, 1982.

4 “(46) NUMBER PORTABILITY.—The term ‘num-
5 ber portability’ means the ability of users of tele-
6 communications services to retain existing tele-
7 communications numbers without impairment of
8 quality, reliability, or convenience when switching
9 from one provider of telecommunications services to
10 another, as long as such user continues to be located
11 within the same exchange area.

12 “(47) TELECOMMUNICATIONS.—The term ‘tele-
13 communications’ means the transmission, between or
14 among points specified by the subscriber, of informa-
15 tion of the subscriber’s choosing, without change in
16 the form or content of the information as sent and
17 received, by means of an electromagnetic trans-
18 mission medium, including all instrumentalities, fa-
19 cilities, apparatus, and services (including the collec-
20 tion, storage, forwarding, switching, and delivery of
21 such information) essential to such transmission.

22 “(48) TELECOMMUNICATIONS EQUIPMENT.—
23 The term ‘telecommunications equipment’ means
24 equipment, other than customer premises equipment,
25 used by a carrier to provide telecommunications

1 services, and includes software integral to such
2 equipment (including upgrades).

3 “(49) TELECOMMUNICATIONS SERVICE.—The
4 term ‘telecommunications service’ means the offer-
5 ing, on a common carrier basis, of telecommuni-
6 cations facilities, or of telecommunications by means
7 of such facilities. Such term does not include an in-
8 formation service.”.

9 (b) STYLISTIC CONSISTENCY.—Section 3 of the Com-
10 munications Act of 1934 (47 U.S.C. 153) is amended—

11 (1) in subsections (e) and (n), by redesignating
12 clauses (1), (2) and (3), as clauses (A), (B), and
13 (C), respectively;

14 (2) in subsection (w), by redesignating para-
15 graphs (1) through (5) as subparagraphs (A)
16 through (E), respectively;

17 (3) in subsections (y) and (z), by redesignating
18 paragraphs (1) and (2) as subparagraphs (A) and
19 (B), respectively;

20 (4) by redesignating subsections (a) through
21 (hh) as paragraphs (1) through (34);

22 (5) by indenting such paragraphs 2 em spaces;

23 (6) by inserting after the designation of each
24 such paragraph—

1 (A) a heading, in a form consistent with
2 the form of the heading of this subsection, con-
3 sisting of the term defined by such paragraph,
4 or the first term so defined if such paragraph
5 defines more than one term; and

6 (B) the words “The term”; and

7 (7) by changing the first letter of each defined
8 term in such paragraphs from a capital to a lower
9 case letter; and

10 (8) by recording such paragraphs and the addi-
11 tional paragraphs added by subsection (a) in alpha-
12 betical order based on the headings of such para-
13 graphs and renumbering such paragraphs as so reor-
14 dered.

15 (c) CONFORMING AMENDMENTS.—The Communica-
16 tions Act of 1934 is amended—

17 (1) in section 225(a)(1), by striking “section
18 3(h)” and inserting “section 3”;

19 (2) in section 332(d), by striking “section 3(n)”
20 each place it appears and inserting “section 3”; and

21 (3) in sections 621(d)(3), 636(d), and
22 637(a)(2), by striking “section 3(v)” and inserting
23 “section 3”.

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