

108TH CONGRESS
1ST SESSION

S. 1264

To reauthorize the Federal Communications Commission, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 13, 2003

Mr. MCCAIN (for himself and Mr. HOLLINGS) introduced the following bill;
which was read twice and referred to the Committee on Commerce,
Science, and Transportation

A BILL

To reauthorize the Federal Communications Commission,
and for other purposes.

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

3 **SECTION 1. SHORT TITLE; AMENDMENT OF COMMUNICA-**
4 **TIONS ACT OF 1934.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “FCC Reauthorization Act of 2003”.

7 (b) AMENDMENT OF COMMUNICATIONS ACT.—Ex-
8 cept as otherwise specifically provided, whenever in this
9 Act an amendment or repeal is expressed in terms of an
10 amendment to, or repeal of, a section or other provision

1 of law, the reference shall be considered to be made to
 2 a section or other provision of the Communications Act
 3 of 1934 (47 U.S.C. 151 et seq.).

4 **SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

5 (a) IN GENERAL.—Section 6 (47 U.S.C. 156) is
 6 amended—

7 (1) by striking subsections (a), (b), and (c);

8 (2) by redesignating subsection (d) as sub-
 9 section (c);

10 (3) by inserting “REGULATORY FEES OFF-
 11 SET.—” before “Of” in subsection (c), as redesign-
 12 ated; and

13 (4) by inserting before subsection (c), as redes-
 14 ignated, the following:

15 “(a) IN GENERAL.—There are authorized to be ap-
 16 propriated for the administration of this Act by the Com-
 17 mission \$281,289,000 for fiscal year 2004, \$299,500,000
 18 for fiscal year 2005, \$318,982,000 for fiscal year 2006,
 19 and \$334,931,000 for fiscal year 2007, to carry out this
 20 Act including amounts necessary for unreimbursed travel,
 21 together with such sums as may be necessary for increases
 22 resulting from adjustments in salary, pay, retirement,
 23 other employee benefits required by law, and other nondis-
 24 cretionary costs, for each of such years.

1 “(b) STAFFING LEVELS.—The Commission may hire
 2 and maintain an adequate number of full time equivalent
 3 staff, to the extent of the amounts authorized by sub-
 4 section (a), necessary to carry out the Commission’s pow-
 5 ers and duties under this Act.”.

6 (b) DEPOSIT OF APPLICATION FEES.—Section 8(e)
 7 is amended to read as follows:

8 “(e) DEPOSIT OF COLLECTIONS.—Moneys received
 9 from fees established under this section shall be deposited
 10 as an offsetting collection in, and credited to, the account
 11 providing appropriations to carry out the functions of the
 12 Commission.”.

13 **SEC. 3. AUDITS AND INVESTIGATIONS OF E-RATE BENE-**
 14 **FICIARY COMPLIANCE WITH PROGRAM RE-**
 15 **QUIREMENTS.**

16 (a) IN GENERAL.—The Federal Communications
 17 Commission shall conduct an investigation into the imple-
 18 mentation, utilization, and Commission oversight of activi-
 19 ties authorized by section 254(h) of the Communications
 20 Act of 1934 (47 U.S.C. 254(h)) and the operations of the
 21 National Education Technology Funding Corporation es-
 22 tablished by section 708 of the Telecommunications Act
 23 of 1996 for each of fiscal years 2004 through 2007, with
 24 a particular emphasis on determining the specific fraud

1 or abuse of Federal funds that has occurred in connection
 2 with such activities or operations.

3 (b) REPORTS.—The Commission shall transmit a re-
 4 port, setting forth its finding, conclusions, and rec-
 5 ommendations, of the results of its investigation for each
 6 of fiscal years 2004 through 2007 to the Senate Com-
 7 mittee on Commerce, Science, and Transportation and the
 8 House of Representatives Committee on Energy and Com-
 9 merce within 1 year after the date of enactment of this
 10 Act.

11 (c) FUNDING.—Of the amounts authorized by section
 12 6(a) of the Communications Act of 1934 (47 U.S.C.
 13 156(a)), the Commission shall allocate such sums as may
 14 be necessary for fiscal years 2004 through 2007 to be used
 15 for audits and investigations of compliance by beneficiaries
 16 with the rules and regulations of the Universal Service
 17 Fund program under section 254(h), commonly known as
 18 the “e-rate program”.

19 **SEC. 4. CLARIFICATION OF CONGRESSIONAL INTENT WITH**
 20 **RESPECT TO BIENNIAL REVIEW MODIFICA-**
 21 **TIONS; FREQUENCY OF REVIEW.**

22 (a) COMMISSION REVIEW OF OWNERSHIP RULES.—
 23 Section 202(h) of the Telecommunications Act of 1996 is
 24 amended to read as follows:

25 “(h) FURTHER COMMISSION REVIEW.—

1 “(1) IN GENERAL.—The Commission shall re-
 2 view its rules adopted pursuant to this section, and
 3 all of its ownership rules quinquennially (beginning
 4 with 2007), and shall determine whether—

5 “(A) any rule requires strengthening or
 6 broadening;

7 “(B) any rule requires limiting or nar-
 8 rowing;

9 “(C) any rule should be repealed; or

10 “(D) any rule should be retained.

11 “(2) CHANGE, REPEAL, OR RETAIN.—The Com-
 12 mission shall change, repeal, or retain such rules
 13 pursuant to its review under paragraph (1) as it de-
 14 termines to be in the public interest.”.

15 (b) OTHER REGULATORY REFORM REVIEWS.—Sec-
 16 tion 11 of the Communications Act of 1934 (47 U.S.C.
 17 161) is amended by adding at the end the following:

18 “(c) OWNERSHIP RULES.—Subsections (a) and (b)
 19 do not apply to ownership rules reviewable under section
 20 202(h) of the Telecommunications Act of 1996.”.

21 **SEC. 5. FCC ENFORCEMENT ENHANCEMENTS.**

22 (a) FORFEITURES IN CASES OF REBATES AND OFF-
 23 SETS.—

1 (1) BROADCAST AND MULTICHANNEL VIDEO
 2 PROVIDERS.—Section 503(b)(2)(A) (47 U.S.C.
 3 503(b)(2)(A)) is amended—

4 (A) by striking “operator, or” in clause (i)
 5 and inserting “operator or any other multi-
 6 channel video distributor, or”;

7 (B) by striking “\$25,000” and inserting
 8 “\$250,000”; and

9 (C) by striking “\$250,000” and inserting
 10 “\$2,500,000”.

11 (2) COMMON CARRIERS.—Section 503(b)(2)(B)
 12 (47 U.S.C. 503(b)(2)(B)) is amended—

13 (A) by striking “\$100,000” and inserting
 14 “\$1,000,000”; and

15 (B) by striking “\$1,000,000” and insert-
 16 ing “\$10,000,000”.

17 (3) OTHERS.—Section 503(b)(2)(C) (47 U.S.C.
 18 503(b)(2)(C)) is amended—

19 (A) by striking “\$10,000” and inserting
 20 “\$100,000”; and

21 (B) by striking “\$75,000” and inserting
 22 “\$750,000”.

23 (4) STATUTE OF LIMITATIONS.—Section
 24 503(b)(6) (47 U.S.C. 503(b)(6)) is amended—

1 (A) by striking “1 year” in subparagraph

2 (A)(i) and inserting “2 years”; and

3 (B) by striking “1 year” in subparagraph

4 (B) and inserting “2 years”.

5 (b) FORFEITURES OF COMMUNICATIONS DEVICES.—

6 Section 510 (47 U.S.C. 510) is amended by inserting “and

7 any equipment used to create malicious interference in vio-

8 lation of section 333,” after “302,”.

9 (c) LIABILITY OF CARRIERS FOR DAMAGES.—Section

10 206 (47 U.S.C. 206) is amended to read as follows:

11 **“SEC. 206. LIABILITY OF CARRIERS FOR DAMAGES.**

12 “A common carrier that does, or causes or permits

13 to be done, any act, matter, or thing prohibited or declared

14 to be unlawful in this Act, or in any rule, regulation, or

15 order issued by the Commission, or that fails to do any

16 act, matter, or thing required to be done by this Act, or

17 by any rule, regulation, or order of the Commission is lia-

18 ble to any person injured by such act or failure for the

19 full amount of damages sustained in consequence of such

20 act or failure, together with a reasonable attorney’s fee.

21 The amount of the attorney’s fee shall be—

22 “(1) fixed by the court in every case of recovery

23 in a judicial proceeding; or

24 “(2) fixed by the Commission in every case of

25 recovery in a Commission proceeding.”.

1 (d) VIOLATIONS OF REGULATIONS, RULES, AND OR-
 2 DERS.—Section 208 (47 U.S.C. 208) is amended by in-
 3 serting “or of any rule, regulation, or order of the Com-
 4 mission,” after “thereof.”

5 **SEC. 6. APPLICATION OF COMMUNICATIONS ACT WITH**
 6 **BANKRUPTCY AND SIMILAR LAWS.**

7 Section 4 (47 U.S.C. 154) is amended by adding at
 8 the end the following:

9 “(p) APPLICATION WITH BANKRUPTCY LAWS.—

10 “(1) IN GENERAL.—The bankruptcy laws shall
 11 not be applied—

12 “(A) to avoid, discharge, stay, or set-off
 13 any pre-petition debt obligation to the United
 14 States arising from an auction under this Act,

15 “(B) to stay the payment obligations of the
 16 debtor to the United States if such payments
 17 were a condition of the grant or retention of a
 18 license under this Act, or

19 “(C) to prevent the automatic cancellation
 20 of licenses for failure to comply with any mone-
 21 tary or non-monetary condition for holding any
 22 license issued by the Commission, including
 23 automatic cancellation of licenses for failure to
 24 pay a monetary obligation of the debtor to the
 25 United States when due under an installment

1 payment plan arising from an auction under
2 this Act,
3 except that, upon cancellation of a license issued by
4 the Commission, the United States shall have an al-
5 lowed unsecured claim for any outstanding debt to
6 the United States with respect to such canceled li-
7 censes, and that unsecured debt may be recovered by
8 the United States under its rights as a creditor
9 under title 11, United States Code, or other applica-
10 ble law.

11 “(2) DEBTOR TO HAVE NO INTEREST IN PRO-
12 CEEDS OF AUCTION.—A debtor in a proceeding
13 under the bankruptcy laws shall have no right or in-
14 terest in any portion of the proceeds from an auction
15 of any license reclaimed by the Commission for fail-
16 ure to pay a monetary obligation of the debtor to the
17 United States in connection with the grant or reten-
18 tion of a license under this Act.

19 “(3) SECURITY INTERESTS.—Notwithstanding
20 any other provision of law, the Commission may—

21 “(A) establish rules and procedures gov-
22 erning security interests in licenses, or the pro-
23 ceeds of the sale of licenses, issued by the Com-
24 mission; and

1 “(B) establish an office within the Office
 2 of Secretary for the recording and perfection of
 3 such security interests without regard to other-
 4 wise applicable State law.

5 “(4) BANKRUPTCY LAWS DEFINED.—In this
 6 subsection, the term ‘bankruptcy laws’ means title
 7 11, United States Code, or any otherwise applicable
 8 Federal or State law regarding insolvencies or re-
 9 ceiverships, including any Federal law enacted or
 10 amended after the date of enactment of the FCC
 11 Reauthorization Act of 2003 not expressly in dero-
 12 gation of this subsection.”.

13 (b) EFFECTIVE DATE.—The amendment made by
 14 subsection (a) shall apply to cases and proceedings com-
 15 menced on or after the date of enactment of this Act.

16 **SEC. 7. BAN ON REIMBURSED TRAVEL EXPENSES.**

17 Section 4(g)(2) (47 U.S.C. 154(g)(2)) is amended to
 18 read as follows:

19 “(2) Notwithstanding section 1353 of title 31, United
 20 States Code, section 4111 of title 5, United States Code,
 21 or any other provision of law in pari materia, no Commis-
 22 sioner or employee of the Commission may accept, nor
 23 may the Commission accept, payment or reimbursement
 24 from the nongovernmental sponsor (or any affiliated orga-
 25 nization) of any convention, conference, or meeting for ex-

1 penses for travel, subsistence, or related expenses incurred
 2 by a commissioner or employee of the Commission for the
 3 purpose of enabling that commissioner or employee to at-
 4 tend and participate in any such convention, conference,
 5 or meeting. The Commission may establish a de minimus
 6 level of payment or value to which the preceding sentence
 7 does not apply.”.

8 **SEC. 8. APPLICATION OF ONE-YEAR RESTRICTIONS TO CER-**
 9 **TAIN POSITIONS.**

10 For purposes of section 207 of title 18, United States
 11 Code, an individual serving in any of the following posi-
 12 tions at the Federal Communications Commission is
 13 deemed to be a person described in section
 14 207(c)(2)(A)(ii) of that title, regardless of the individual’s
 15 rate of basic pay:

16 (1) Chief, Office of Engineering and Tech-
 17 nology.

18 (2) Director, Office of Legislative Affairs.

19 (3) Inspector General, Office of Inspector Gen-
 20 eral.

21 (4) Managing Director, Office of Managing Di-
 22 rector.

23 (5) General Counsel, Office of General Counsel.

24 (6) Chief, Office of Strategic Planning and Pol-
 25 icy Analysis.

1 (7) Chief, Consumer and Governmental Affairs
2 Bureau.

3 (8) Chief, Enforcement Bureau.

4 (9) Chief, International Bureau.

5 (10) Chief, Media Bureau.

6 (11) Chief, Wireline Competition Bureau.

7 (12) Chief, Wireless Telecommunications Bu-
8 reau.

9 **SEC. 9. VIDEO DESCRIPTION RULES AUTHORITY.**

10 Notwithstanding the decision of the United States
11 Court of Appeals for the District of Columbia Circuit in
12 Motion Picture Association of America, Inc., et al., v. Fed-
13 eral Communications Commission, et al. (309 F. 3d 796,
14 November 8, 2002), the Federal Communications Com-
15 mission—

16 (1) shall, within 90 days after the date of en-
17 actment of this Act, reinstate its video description
18 rules contained in the report and order identified as
19 Implementation of Video Description of Video Pro-
20 gramming, Report and Order, 15 F.C.C.R. 15,230
21 (2000); and

22 (2) may amend, repeal, or otherwise modify
23 such rules.

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