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Union Calendar No. 105

104TH CONGRESS
1ST SESSION

H. R. 1555

[Report No. 104-204, Part I]

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. KLUIG, Mr. GREENWOOD, Mr. CRAPO, Mr. FRISA, Mr. WHITE, Mr. COBURN, Mr. TAUZIN, Mr. HALL of Texas, Mr. BOUCHER, Mr. MANTON, Mr. TOWNS, Mr. 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

JULY 24, 1995

Reported from the Committee on Commerce with an amendment

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

Referral to the Committee on the Judiciary extended for a period ending not later than July 24, 1995

Additional sponsors: Mr. DEUTSCH, and Mr. COX of California

Committee on the Judiciary discharged, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on May 3, 1995]

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,*

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

5 (a) *SHORT TITLE.—This Act may be cited as the*
6 *“Communications Act of 1995”.*

7 (b) *REFERENCES.—References in this Act to “the Act”*
8 *are references to the Communications Act of 1934.*

9 (c) *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 competing providers.

“Sec. 243. Preemption.

“Sec. 244. Statements of terms and conditions for access and interconnection.

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

“Sec. 246. Competitive safeguards.

“Sec. 247. Universal service.

“Sec. 248. Pricing flexibility and abolition of rate-of-return regulation.

“Sec. 249. Network functionality and accessibility.

“Sec. 250. Market entry barriers.

“Sec. 251. Illegal changes in subscriber carrier selections.

“Sec. 252. Study.

“Sec. 253. Territorial exemption.”.

Sec. 102. Competition in manufacturing, information services, alarm services, and pay phone services.

"PART III—SPECIAL AND TEMPORARY PROVISIONS

- "Sec. 271. Manufacturing by Bell operating companies.*
"Sec. 272. Electronic publishing by Bell operating companies.
"Sec. 273. Alarm monitoring and telemessaging services by Bell operating companies.
"Sec. 274. Provision of payphone service."
Sec. 103. Forbearance from regulation.
"Sec. 230. Forbearance from regulation."
Sec. 104. Privacy of customer information.
"Sec. 222. Privacy of customer proprietary network information."
Sec. 105. Pole attachments.
Sec. 106. Preemption of franchising authority regulation of telecommunications services.
Sec. 107. Facilities siting; radio frequency emission standards.
Sec. 108. Mobile service access to long distance carriers.
Sec. 109. Freedom from toll fraud.
Sec. 110. Report on means of restricting access to unwanted material in interactive telecommunication systems.
Sec. 111. Authorization of appropriations.

TITLE II—CABLE COMMUNICATIONS COMPETITIVENESS

Sec. 201. Cable service provided by telephone companies.

"PART V—VIDEO PROGRAMMING SERVICES PROVIDED BY TELEPHONE COMPANIES

- "Sec. 651. Definitions.*
"Sec. 652. Separate video programming affiliate.
"Sec. 653. Establishment of video platform.
"Sec. 654. Authority to prohibit cross-subsidization.
"Sec. 655. Prohibition on buy outs.
"Sec. 656. Applicability of parts I through IV.
"Sec. 657. Rural area exemption."
Sec. 202. Competition from cable systems.
Sec. 203. Competitive availability of navigation devices.
"Sec. 713. Competitive availability of navigation devices."
Sec. 204. Video programming accessibility.
Sec. 205. Technical amendments.

TITLE III—BROADCAST COMMUNICATIONS COMPETITIVENESS

- Sec. 301. Broadcaster spectrum flexibility.*
"Sec. 336. Broadcast spectrum flexibility."
Sec. 302. Broadcast ownership.
"Sec. 337. Broadcast ownership."
Sec. 303. Foreign investment and ownership.
Sec. 304. Term of licenses.
Sec. 305. Broadcast license renewal procedures.
Sec. 306. Exclusive Federal jurisdiction over direct broadcast satellite service.
Sec. 307. Automated ship distress and safety systems.
Sec. 308. Restrictions on over-the-air reception devices.
Sec. 309. DBS signal security.

TITLE IV—EFFECT ON OTHER LAWS*Sec. 401. Relationship to other laws.**Sec. 402. Preemption of local taxation with respect to DBS services.***TITLE V—DEFINITIONS***Sec. 501. Definitions.***TITLE VI—SMALL BUSINESS COMPLAINT PROCEDURE***Sec. 601. Complaint procedure.*

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 Act is amended by*
 6 *inserting after section 229 (47 U.S.C. 229) the following*
 7 *new part:*

8 **“PART II—DEVELOPMENT OF COMPETITIVE**
 9 **MARKETS**

10 **“SEC. 241. INTERCONNECTION.**

11 *“The duty of a common carrier under section 201(a)*
 12 *includes the duty to interconnect with the facilities and*
 13 *equipment of other providers of telecommunications services*
 14 *and information services.*

15 **“SEC. 242. EQUAL ACCESS AND INTERCONNECTION TO THE**
 16 **LOCAL LOOP FOR COMPETING PROVIDERS.**

17 *“(a) OPENNESS AND ACCESSIBILITY OBLIGATIONS.—*
 18 *The duty under section 201(a) of a local exchange carrier*
 19 *includes the following duties:*

1 “(1) *INTERCONNECTION.*—The duty to provide,
2 in accordance with subsection (b), equal access to and
3 interconnection with the facilities of the carrier's net-
4 works to any other carrier or person offering (or seek-
5 ing to offer) telecommunications services or informa-
6 tion services reasonably requesting such equal access
7 and interconnection, so that such networks are fully
8 interoperable with such telecommunications services
9 and information services. For purposes of this para-
10 graph, a request is not reasonable unless it contains
11 a proposed plan, including a reasonable schedule, for
12 the implementation of the requested access or inter-
13 connection.

14 “(2) *UNBUNDLING OF NETWORK ELEMENTS.*—
15 The duty to offer unbundled services, elements, fea-
16 tures, functions, and capabilities whenever technically
17 feasible, at just, reasonable, and nondiscriminatory
18 prices and in accordance with subsection (b)(4).

19 “(3) *RESALE.*—The duty to offer services, ele-
20 ments, features, functions, and capabilities for resale
21 at economically feasible rates to the reseller, recogniz-
22 ing pricing structures for telephone exchange service
23 in the State, and the duty not to prohibit, and not
24 to impose unreasonable or discriminatory conditions
25 or limitations on, the resale, on a bundled or

1 *unbundled basis, of services, elements, features, func-*
2 *tions, and capabilities in conjunction with the fur-*
3 *nishing of a telecommunications service or an infor-*
4 *mation service.*

5 *“(4) NUMBER PORTABILITY.—The duty to pro-*
6 *vide, to the extent technically feasible, number port-*
7 *ability in accordance with requirements prescribed by*
8 *the Commission.*

9 *“(5) DIALING PARITY.—The duty to provide, in*
10 *accordance with subsection (c), dialing parity to com-*
11 *peting providers of telephone exchange service and*
12 *telephone toll service.*

13 *“(6) ACCESS TO RIGHTS-OF-WAY.—The duty to*
14 *afford access to the poles, ducts, conduits, and rights-*
15 *of-way of such carrier to competing providers of tele-*
16 *communications services in accordance with section*
17 *224(d).*

18 *“(7) NETWORK FUNCTIONALITY AND ACCESSIBIL-*
19 *ITY.—The duty not to install network features, func-*
20 *tions, or capabilities that do not comply with any*
21 *standards established pursuant to section 249.*

22 *“(8) GOOD FAITH NEGOTIATION.—The duty to*
23 *negotiate in good faith, under the supervision of State*
24 *commissions, the particular terms and conditions of*
25 *agreements to fulfill the duties described in para-*

1 *graphs (1) through (7). The other carrier or person*
2 *requesting interconnection shall also be obligated to*
3 *negotiate in good faith the particular terms and con-*
4 *ditions of agreements to fulfill the duties described in*
5 *paragraphs (1) through (7).*

6 “(b) *INTERCONNECTION, COMPENSATION, AND EQUAL*
7 *ACCESS.—*

8 “(1) *INTERCONNECTION.—A local exchange car-*
9 *rier shall provide access to and interconnection with*
10 *the facilities of the carrier’s network at any tech-*
11 *nically feasible point within the carrier’s network on*
12 *just and reasonable terms and conditions, to any*
13 *other carrier or person offering (or seeking to offer)*
14 *telecommunications services or information services*
15 *requesting such access.*

16 “(2) *INTERCARRIER COMPENSATION BETWEEN*
17 *FACILITIES-BASED CARRIERS.—*

18 “(A) *IN GENERAL.—For the purposes of*
19 *paragraph (1), the terms and conditions for*
20 *interconnection of the network facilities of a*
21 *competing provider of telephone exchange service*
22 *shall not be considered to be just and reasonable*
23 *unless—*

24 “(i) *such terms and conditions provide*
25 *for the mutual and reciprocal recovery by*

1 *each carrier of costs associated with the ter-*
2 *mination on such carrier's network facili-*
3 *ties of calls that originate on the network*
4 *facilities of the other carrier;*

5 “(ii) *such terms and conditions deter-*
6 *mine such costs on the basis of a reasonable*
7 *approximation of the additional costs of ter-*
8 *minating such calls; and*

9 “(iii) *the recovery of costs permitted by*
10 *such terms and conditions are reasonable in*
11 *relation to the prices for termination of*
12 *calls that would prevail in a competitive*
13 *market.*

14 “(B) *RULES OF CONSTRUCTION.—This*
15 *paragraph shall not be construed—*

16 “(i) *to preclude arrangements that af-*
17 *ford such mutual recovery of costs through*
18 *the offsetting of reciprocal obligations, in-*
19 *cluding arrangements that waive mutual re-*
20 *covery (such as bill-and-keep arrangements);*
21 *or*

22 “(ii) *to authorize the Commission or*
23 *any State commission to engage in any rate*
24 *regulation proceeding to establish with par-*
25 *ticularity the additional costs of terminat-*

1 ing calls, or to require carriers to maintain
2 records with respect to the additional costs
3 of terminating calls.

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

9 “(A) to databases, signaling systems, billing
10 and collection services, poles, ducts, conduits,
11 and rights-of-way owned or controlled by a local
12 exchange carrier, or other facilities, functions, or
13 information (including subscriber numbers) inte-
14 gral to the efficient transmission, routing, or
15 other provision of telephone exchange services or
16 exchange access;

17 “(B) that is equal in type and quality to
18 the access which the carrier affords to itself or to
19 any other person, and is available at non-
20 discriminatory prices; and

21 “(C) that is sufficient to ensure the full
22 interoperability of the equipment and facilities
23 of the carrier and of the person seeking such ac-
24 cess.

25 “(4) *COMMISSION ACTION REQUIRED.*—

1 “(A) *IN GENERAL.*—Within 15 months after
2 the date of enactment of this part, the Commis-
3 sion shall complete all actions necessary (includ-
4 ing any reconsideration) to establish regulations
5 to implement the requirements of this section.
6 The Commission shall establish such regulations
7 after consultation with the Joint Board estab-
8 lished pursuant to section 247.

9 “(B) *COLLOCATION.*—Such regulations shall
10 provide for actual collocation of equipment nec-
11 essary for interconnection for telecommuni-
12 cations services at the premises of a local ex-
13 change carrier, except that the regulations shall
14 provide for virtual collocation where the local ex-
15 change carrier demonstrates that actual colloca-
16 tion is not practical for technical reasons or be-
17 cause of space limitations.

18 “(C) *USER PAYMENT OF COSTS.*—Such reg-
19 ulations shall require that the costs that a car-
20 rier incurs in offering access, interconnection,
21 number portability, or unbundled services, ele-
22 ments, features, functions, and capabilities shall
23 be borne by the users of such access, interconnec-
24 tion, number portability, or services, elements,
25 features, functions, and capabilities.

1 “(D) *IMPUTED CHARGES TO CARRIER.*—

2 *Such regulations shall require the carrier, to the*
3 *extent it provides a telecommunications service*
4 *or an information service that requires access or*
5 *interconnection to its network facilities, to im-*
6 *pute such access and interconnection charges to*
7 *itself.*

8 “(c) *NUMBER PORTABILITY AND DIALING PARITY.*—

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

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

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

21 “(2) *NUMBER ADMINISTRATION.*—*The Commis-*
22 *sion shall designate one or more impartial entities to*
23 *administer telecommunications numbering and to*
24 *make such numbers available on an equitable basis.*
25 *The Commission shall have exclusive jurisdiction over*

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

6 “(d) *JOINT MARKETING OF RESOLD ELEMENTS.—*

7 “(1) *RESTRICTION.—Except as provided in*
8 *paragraph (2), no service, element, feature, function,*
9 *or capability that is made available for resale in any*
10 *State by a Bell operating company may be jointly*
11 *marketed directly or indirectly with any interLATA*
12 *telephone toll service until such Bell operating com-*
13 *pany is authorized pursuant to section 245(d) to pro-*
14 *vide interLATA services in such State.*

15 “(2) *EXISTING PROVIDERS.—Paragraph (1) shall*
16 *not prohibit joint marketing of services, elements, fea-*
17 *tures, functions, or capabilities acquired from a Bell*
18 *operating company by another provider if that pro-*
19 *vider jointly markets services, elements, features, func-*
20 *tions, and capabilities acquired from a Bell operating*
21 *company anywhere in the telephone service territory*
22 *of such Bell operating company, or in the telephone*
23 *service territory of any affiliate of such Bell operating*
24 *company that provides telephone exchange service,*
25 *pursuant to any agreement, tariff, or other arrange-*

1 *ment entered into or in effect before the date of enact-*
2 *ment of this part.*

3 *“(e) MODIFICATIONS AND WAIVERS.—The Commission*
4 *may modify or waive the requirements of this section for*
5 *any local exchange carrier (or class or category of such car-*
6 *riers) that has, in the aggregate nationwide, fewer than*
7 *500,000 access lines installed, to the extent that the Com-*
8 *mission determines that compliance with such requirements*
9 *(without such modification) would be unduly economically*
10 *burdensome, technologically infeasible, or otherwise not in*
11 *the public interest.*

12 *“(f) WAIVER FOR RURAL TELEPHONE COMPANIES.—*
13 *A State commission may waive the requirements of this sec-*
14 *tion with respect to any rural telephone company.*

15 *“(g) EXEMPTION FOR CERTAIN RURAL TELEPHONE*
16 *COMPANIES.—Subsections (a) through (d) of this section*
17 *shall not apply to a carrier that has fewer than 50,000 ac-*
18 *cess lines in a local exchange study area, if such carrier*
19 *does not provide video programming services over its tele-*
20 *phone exchange facilities in such study area, except that*
21 *a State commission may terminate the exemption under*
22 *this subsection if the State commission determines that the*
23 *termination of such exemption is consistent with the public*
24 *interest, convenience, and necessity.*

1 “(h) *AVOIDANCE OF REDUNDANT REGULATIONS.*—
2 *Nothing in this section shall be construed to prohibit the*
3 *Commission or any State commission from enforcing regu-*
4 *lations prescribed prior to the date of enactment of this part*
5 *in fulfilling the requirements of this section, to the extent*
6 *that such regulations are consistent with the provisions of*
7 *this section.*

8 **“SEC. 243. PREEMPTION.**

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

12 “(1) *effectively prohibit any carrier or other per-*
13 *son from entering the business of providing interstate*
14 *or intrastate telecommunications services or informa-*
15 *tion services; or*

16 “(2) *effectively prohibit any carrier or other per-*
17 *son providing (or seeking to provide) interstate or*
18 *intrastate telecommunications services or information*
19 *services from exercising the access and interconnection*
20 *rights provided under this part.*

21 “(b) *STATE AND LOCAL AUTHORITY.*—*Nothing in this*
22 *section shall affect the ability of State or local officials to*
23 *impose, on a nondiscriminatory basis, requirements nec-*
24 *essary to preserve and advance universal service, protect the*
25 *public safety and welfare, ensure the continued quality of*

1 *telecommunications services, ensure that a provider's busi-*
2 *ness practices are consistent with consumer protection laws*
3 *and regulations, and ensure just and reasonable rates, pro-*
4 *vided that such requirements do not effectively prohibit any*
5 *carrier or person from providing interstate or intrastate*
6 *telecommunications services or information services.*

7 “(c) *CONSTRUCTION PERMITS.—Subsection (a) shall*
8 *not be construed to prohibit a local government from requir-*
9 *ing a person or carrier to obtain ordinary and usual con-*
10 *struction or similar permits for its operations if—*

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

13 “(2) *requiring such permit does not effectively*
14 *prohibit any person or carrier from providing any*
15 *interstate or intrastate telecommunications service or*
16 *information service.*

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

20 “(e) *PARITY OF FRANCHISE AND OTHER CHARGES.—*
21 *Notwithstanding section 2(b), no local government may im-*
22 *pose or collect any franchise, license, permit, or right-of-*
23 *way fee or any assessment, rental, or any other charge or*
24 *equivalent thereof as a condition for operating in the local-*
25 *ity or for obtaining access to, occupying, or crossing public*

1 *rights-of-way from any provider of telecommunications*
 2 *services that distinguishes between or among providers of*
 3 *telecommunications services, including the local exchange*
 4 *carrier. For purposes of this subsection, a franchise, license,*
 5 *permit, or right-of-way fee or an assessment, rental, or any*
 6 *other charge or equivalent thereof does not include any im-*
 7 *position of general applicability which does not distinguish*
 8 *between or among providers of telecommunications services,*
 9 *or any tax.*

10 **“SEC. 244. STATEMENTS OF TERMS AND CONDITIONS FOR**
 11 **ACCESS AND INTERCONNECTION.**

12 *“(a) IN GENERAL.—Within 18 months after the date*
 13 *of enactment of this part, and from time to time thereafter,*
 14 *a local exchange carrier shall prepare and file with a State*
 15 *commission statements of the terms and conditions that*
 16 *such carrier generally offers within that State with respect*
 17 *to the services, elements, features, functions, or capabilities*
 18 *provided to comply with the requirements of section 242*
 19 *and the regulations thereunder. Any such statement per-*
 20 *taining to the charges for interstate services, elements, fea-*
 21 *tures, functions, or capabilities shall be filed with the Com-*
 22 *mission.*

23 *“(b) REVIEW.—*

24 *“(1) STATE COMMISSION REVIEW.—A State com-*
 25 *mission to which a statement is submitted under sub-*

1 *section (a) shall review such statement in accordance*
2 *with State law. A State commission may not approve*
3 *such statement unless such statement complies with*
4 *section 242 and the regulations thereunder. Except as*
5 *provided in section 243, nothing in this section shall*
6 *prohibit a State commission from establishing or en-*
7 *forcing other requirements of State law in its review*
8 *of such statement, including requiring compliance*
9 *with intrastate telecommunications service quality*
10 *standards or requirements.*

11 *“(2) FCC REVIEW.—The Commission shall re-*
12 *view such statements to ensure that—*

13 *“(A) the charges for interstate services, ele-*
14 *ments, features, functions, or capabilities are*
15 *just, reasonable, and nondiscriminatory; and*

16 *“(B) the terms and conditions for such*
17 *interstate services or elements unbundle any sep-*
18 *arable services, elements, features, functions, or*
19 *capabilities in accordance with section 242(a)(2)*
20 *and any regulations thereunder.*

21 *“(c) TIME FOR REVIEW.—*

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

1 “(A) complete the review of such statement
2 under subsection (b) (including any reconsider-
3 ation thereof), unless the submitting carrier
4 agrees to an extension of the period for such re-
5 view; or

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

7 “(2) *AUTHORITY TO CONTINUE REVIEW.*—Para-
8 graph (1) shall not preclude the Commission or a
9 State commission from continuing to review a state-
10 ment that has been permitted to take effect under sub-
11 paragraph (B) of such paragraph.

12 “(d) *EFFECT OF AGREEMENTS.*—Nothing in this sec-
13 tion shall prohibit a carrier from filing an agreement to
14 provide services, elements, features, functions, or capabili-
15 ties affording access and interconnection as a statement of
16 terms and conditions that the carrier generally offers for
17 purposes of this section. An agreement affording access and
18 interconnection shall not be approved under this section un-
19 less the agreement contains a plan, including a reasonable
20 schedule, for the implementation of the requested access or
21 interconnection. The approval of a statement under this sec-
22 tion shall not operate to prohibit a carrier from entering
23 into subsequent agreements that contain terms and condi-
24 tions that differ from those contained in a statement that
25 has been reviewed and approved under this section, but—

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

3 “(2) such carrier shall be obligated to offer access
4 *to such services, elements, features, functions, or capa-*
5 *bilities to other carriers and persons (including car-*
6 *riers and persons covered by previously approved*
7 *statements) requesting such access on terms and con-*
8 *ditions that, in relation to the terms and conditions*
9 *in such subsequent agreements, are not discrimina-*
10 *tory.*

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

16 **“SEC. 245. BELL OPERATING COMPANY ENTRY INTO**
17 **INTERLATA SERVICES.**

18 “(a) *VERIFICATION OF ACCESS AND INTERCONNECTION*
19 *COMPLIANCE.*—*At any time after 18 months after the date*
20 *of enactment of this part, a Bell operating company may*
21 *provide to the Commission verification by such company*
22 *with respect to one or more States that such company is*
23 *in compliance with the requirements of this part. Such ver-*
24 *ification shall contain the following:*

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

6 “(2) **AGREEMENT OR STATEMENT.**—For each
7 such State, either of the following:

8 “(A) **PRESENCE OF A FACILITIES-BASED**
9 **COMPETITOR.**—An agreement that has been ap-
10 proved under section 244 specifying the terms
11 and conditions under which the Bell operating
12 company is providing access and interconnection
13 to its network facilities in accordance with sec-
14 tion 242 for an unaffiliated competing provider
15 of telephone exchange service that is comparable
16 in price, features, and scope and that is provided
17 over the competitor’s own network facilities to
18 residential and business subscribers.

19 “(B) **FAILURE TO REQUEST ACCESS.**—If no
20 such provider has requested such access and
21 interconnection before the date which is 3 months
22 before the date the company makes its submis-
23 sion under this subsection, a statement of the
24 terms and conditions that the carrier generally
25 offers to provide such access and interconnection

1 that has been approved or permitted to take ef-
2 fect by the State commission under section 243.

3 For purposes of subparagraph (B), a Bell operating
4 company shall be considered not to have received any
5 request for access or interconnection if the State com-
6 mission of such State or States certifies that the only
7 provider or providers making such request have (i)
8 failed to bargain in good faith under the supervision
9 of such State commission pursuant to section
10 242(a)(8), or (ii) have violated the terms of their
11 agreement by failure to comply, within a reasonable
12 period of time, with the implementation schedule con-
13 tained in such agreement.

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

20 “(1) **INTERCONNECTION.**—The Bell operating
21 company provides access and interconnection in ac-
22 cordance with subsections (a)(1) and (b) of section
23 242 to any other carrier or person offering tele-
24 communications services requesting such access and
25 interconnection, and complies with the Commission

1 *regulations pursuant to such section concerning such*
2 *access and interconnection.*

3 “(2) *UNBUNDLING OF NETWORK ELEMENTS.—*
4 *The Bell operating company provides unbundled serv-*
5 *ices, elements, features, functions, and capabilities in*
6 *accordance with subsection (a)(2) of section 242 and*
7 *the regulations prescribed by the Commission pursu-*
8 *ant to such section.*

9 “(3) *RESALE.—The Bell operating company of-*
10 *fers services, elements, features, functions, and capa-*
11 *bilities for resale in accordance with section*
12 *242(a)(3), and neither the Bell operating company,*
13 *nor any unit of State or local government within the*
14 *State, imposes any restrictions on resale or sharing of*
15 *telephone exchange service (or unbundled services, ele-*
16 *ments, features, or functions of telephone exchange*
17 *service) in violation of section 242(a)(3).*

18 “(4) *NUMBER PORTABILITY.—The Bell operating*
19 *company provides number portability in compliance*
20 *with the Commission’s regulations pursuant to sub-*
21 *sections (a)(4) and (c) of section 242.*

22 “(5) *DIALING PARITY.—The Bell operating com-*
23 *pany provides dialing parity in accordance with sub-*
24 *sections (a)(5) and (c) of section 242, and will, not*
25 *later than the effective date of its authority to com-*

1 *mence providing interLATA services, take such ac-*
2 *tions as are necessary to provide dialing parity for*
3 *intraLATA telephone toll service in accordance with*
4 *such subsections.*

5 *“(6) ACCESS TO CONDUITS AND RIGHTS OF*
6 *WAY.—The poles, ducts, conduits, and rights of way*
7 *of such Bell operating company are available to com-*
8 *peting providers of telecommunications services in ac-*
9 *cordance with the requirements of sections 242(a)(6)*
10 *and 224(d).*

11 *“(7) ELIMINATION OF FRANCHISE LIMITA-*
12 *TIONS.—No unit of the State or local government in*
13 *such State or States enforces any prohibition or limi-*
14 *tation in violation of section 243.*

15 *“(8) NETWORK FUNCTIONALITY AND ACCESSIBIL-*
16 *ITY.—The Bell operating company will not install*
17 *network features, functions, or capabilities that do not*
18 *comply with the standards established pursuant to*
19 *section 249.*

20 *“(9) NEGOTIATION OF TERMS AND CONDI-*
21 *TIONS.—The Bell operating company has negotiated*
22 *in good faith, under the supervision of the State com-*
23 *mission, in accordance with the requirements of sec-*
24 *tion 242(a)(8) with any other carrier or person re-*
25 *questing access or interconnection.*

1 “(c) *APPLICATION FOR INTERIM INTERLATA AU-*
2 *THORITY.—*

3 “(1) *APPLICATION SUBMISSION AND CON-*
4 *TENTS.—At any time after the date of enactment of*
5 *this part, and prior to the completion by the Commis-*
6 *sion of all actions necessary to establish regulations*
7 *under section 242, a Bell operating company may*
8 *apply to the Commission for interim authority to*
9 *provide interLATA services. Such application shall*
10 *specify the LATA or LATAs for which the company*
11 *is requesting authority to provide interim interLATA*
12 *services. Such application shall contain, with respect*
13 *to each LATA within a State for which authorization*
14 *is requested, the following:*

15 “(A) *PRESENCE OF A FACILITIES-BASED*
16 *COMPETITOR.—An agreement that the State com-*
17 *mission has determined complies with section*
18 *242 (without regard to any regulations there-*
19 *under) and that specifies the terms and condi-*
20 *tions under which the Bell operating company is*
21 *providing access and interconnection to its net-*
22 *work facilities for an unaffiliated competing pro-*
23 *vider of telephone exchange service that is com-*
24 *parable in price, features, and scope and that is*

1 *provided over the competitor's own network fa-*
2 *cilities to residential and business subscribers.*

3 “(B) *CERTIFICATION.—A certification by*
4 *the State commission of the State within which*
5 *such LATA is located that such company is in*
6 *compliance with State laws, rules, and regula-*
7 *tions providing for the implementation of the*
8 *standards described in subsection (b) as of the*
9 *date of certification, including certification that*
10 *such company is offering services, elements, fea-*
11 *tures, functions, and capabilities for resale at*
12 *economically feasible rates to the reseller, rec-*
13 *ognizing pricing structures for telephone ex-*
14 *change service in such State.*

15 “(2) *STATE TO PARTICIPATE.—The company*
16 *shall serve a copy of the application on the relevant*
17 *State commission within 5 days of filing its applica-*
18 *tion. The State shall file comments to the Commission*
19 *on the company's application within 40 days of re-*
20 *ceiving a copy of the company's application.*

21 “(3) *DEADLINES FOR COMMISSION ACTION.—The*
22 *Commission shall make a determination on such ap-*
23 *plication not more than 90 days after such applica-*
24 *tion is filed.*

1 “(4) *EXPIRATION OF INTERIM AUTHORITY.*—Any
2 *interim authority granted pursuant to this subsection*
3 *shall cease to be effective 180 days after the comple-*
4 *tion by the Commission of all actions necessary to es-*
5 *tablish regulations under section 242.*

6 “(d) *COMMISSION REVIEW.*—

7 “(1) *REVIEW OF STATE DECISIONS AND CERTIFI-*
8 *CATIONS.*—*The Commission shall review any verifica-*
9 *tion submitted by a Bell operating company pursuant*
10 *to subsection (a). The Commission may require such*
11 *company to submit such additional information as is*
12 *necessary to validate any of the items of such verifica-*
13 *tion.*

14 “(2) *DE NOVO REVIEW.*—*If—*

15 “(A) *a State commission does not have the*
16 *jurisdiction or authority to make the certifi-*
17 *cation required by subsection (b);*

18 “(B) *the State commission has failed to act*
19 *within 90 days after the date a request for such*
20 *certification is filed with such State commission;*
21 *or*

22 “(C) *the State commission has sought to*
23 *impose a term or condition in violation of sec-*
24 *tion 243;*

1 *the local exchange carrier may request the Commis-*
2 *sion to certify the carrier's compliance with the con-*
3 *ditions specified in subsection (b).*

4 “(3) *TIME FOR DECISION; PUBLIC COMMENT.—*
5 *Unless such Bell operating company consents to a*
6 *longer period of time, the Commission shall approve,*
7 *disapprove, or approve with conditions such verifica-*
8 *tion within 90 days after the date of its submission.*
9 *During such 90 days, the Commission shall afford in-*
10 *terested persons an opportunity to present informa-*
11 *tion and evidence concerning such verification.*

12 “(4) *STANDARD FOR DECISION.—The Commis-*
13 *sion shall not approve such verification unless the*
14 *Commission determines that—*

15 “(A) *the Bell operating company meets each*
16 *of the conditions required to be certified under*
17 *subsection (b); and*

18 “(B) *the agreement or statement submitted*
19 *under subsection (a)(2) complies with the re-*
20 *quirements of section 242 and the regulations*
21 *thereunder.*

22 “(c) *ENFORCEMENT OF CONDITIONS.—*

23 “(1) *COMMISSION AUTHORITY.—If at any time*
24 *after the approval of a verification under subsection*
25 *(d), the Commission determines that a Bell operating*

1 *company has ceased to meet any of the conditions re-*
 2 *quired to be certified under subsection (b), the Com-*
 3 *mission may, after notice and opportunity for a hear-*
 4 *ing—*

5 *“(A) issue an order to such company to cor-*
 6 *rect the deficiency;*

7 *“(B) impose a penalty on such company*
 8 *pursuant to title V; or*

9 *“(C) suspend or revoke such approval.*

10 *“(2) RECEIPT AND REVIEW OF COMPLAINTS.—*

11 *The Commission shall establish procedures for the re-*
 12 *view of complaints concerning failures by Bell operat-*
 13 *ing companies to meet conditions required to be cer-*
 14 *tified under subsection (b). Unless the parties other-*
 15 *wise agree, the Commission shall act on such com-*
 16 *plaint within 90 days.*

17 *“(3) STATE AUTHORITY.—The authority of the*
 18 *Commission under this subsection shall not be con-*
 19 *strued to preempt any State commission from taking*
 20 *actions to enforce the conditions required to be cer-*
 21 *tified under subsection (b).*

22 *“(f) AUTHORITY TO PROVIDE INTERLATA SERV-*
 23 *ICES.—*

24 *“(1) PROHIBITION.—Except as provided in*
 25 *paragraph (2) and subsections (g) and (h), a Bell op-*

1 *erating company or affiliate thereof may not provide*
 2 *interLATA services.*

3 *“(2) AUTHORITY SUBJECT TO CERTIFICATION.—*

4 *A Bell operating company or affiliate thereof may, in*
 5 *any States to which its verification under subsection*
 6 *(a) applies, provide interLATA services—*

7 *“(A) during any period after the effective*
 8 *date of the Commission’s approval of such ver-*
 9 *ification pursuant to subsection (d), and*

10 *“(B) until the approval of such verification*
 11 *is suspended or revoked by the Commission pur-*
 12 *suant to subsection (d).*

13 *“(g) EXCEPTION FOR PREVIOUSLY AUTHORIZED AC-*
 14 *TIVITIES.—Subsection (f) shall not prohibit a Bell operat-*
 15 *ing company or affiliate from engaging, at any time after*
 16 *the date of the enactment of this part, in any activity as*
 17 *authorized by an order entered by the United States Dis-*
 18 *trict Court for the District of Columbia pursuant to section*
 19 *VII or VIII(C) of the Modification of Final Judgment, if—*

20 *“(1) such order was entered on or before the date*
 21 *of the enactment of this part, or*

22 *“(2) a request for such authorization was pend-*
 23 *ing before such court on the date of the enactment of*
 24 *this part.*

1 “(h) *EXCEPTIONS FOR INCIDENTAL SERVICES.*—Sub-
2 *section (f) shall not prohibit a Bell operating company or*
3 *affiliate thereof, at any time after the date of the enactment*
4 *of this part, from providing interLATA services for the pur-*
5 *pose of—*

6 “(1)(A) *providing audio programming, video*
7 *programming, or other programming services to sub-*
8 *scribers to such services of such company;*

9 “(B) *providing the capability for interaction by*
10 *such subscribers to select or respond to such audio*
11 *programming, video programming, or other program-*
12 *ming services; or*

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

18 “(2) *providing a telecommunications service,*
19 *using the transmission facilities of a cable system*
20 *that is an affiliate of such company, between local ac-*
21 *cess and transport areas within a cable system fran-*
22 *chise area in which such company is not, on the date*
23 *of the enactment of this part, a provider of wireline*
24 *telephone exchange service;*

1 “(3) providing commercial mobile services in ac-
2 cordance with section 332(c) of this Act and with the
3 regulations prescribed by the Commission pursuant to
4 paragraph (8) of such section;

5 “(4) providing a service that permits a customer
6 that is located in one local access and transport area
7 to retrieve stored information from, or file informa-
8 tion for storage in, information storage facilities of
9 such company that are located in another local access
10 and transport area;

11 “(5) providing signaling information used in
12 connection with the provision of telephone exchange
13 services to a local exchange carrier that, together with
14 any affiliated local exchange carriers, has aggregate
15 annual revenues of less than \$100,000,000; or

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

22 “(i) *INTRALATA TOLL DIALING PARITY*.—Neither the
23 Commission nor any State may order any Bell operating
24 company to provide dialing parity for intraLATA tele-
25 phone toll service in any State before the date such company

1 *is authorized to provide interLATA services in such State*
2 *pursuant to this section.*

3 “(j) *FORBEARANCE.—The Commission may not, pur-*
4 *suant to section 230, forbear from applying any provision*
5 *of this section or any regulation thereunder until at least*
6 *5 years after the date of enactment of this part.*

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

12 “(l) *DEFINITIONS.—As used in this section—*

13 “(1) *AUDIO PROGRAMMING.—The term ‘audio*
14 *programming’ means programming provided by, or*
15 *generally considered comparable to programming pro-*
16 *vided by, a radio broadcast station.*

17 “(2) *VIDEO PROGRAMMING.—The term ‘video*
18 *programming’ has the meaning provided in section*
19 *602.*

20 “(3) *OTHER PROGRAMMING SERVICES.—The*
21 *term ‘other programming services’ means information*
22 *(other than audio programming or video program-*
23 *ming) that the person who offers a video program-*
24 *ming service makes available to all subscribers gen-*
25 *erally. For purposes of the preceding sentence, the*

1 *terms 'information' and 'makes available to all sub-*
2 *scribers generally' have the same meaning such terms*
3 *have under section 602(13) of this Act.*

4 **"SEC. 246. COMPETITIVE SAFEGUARDS.**

5 *"(a) IN GENERAL.—In accordance with the require-*
6 *ments of this section and the regulations adopted there-*
7 *under, a Bell operating company or any affiliate thereof*
8 *providing any interLATA telecommunications or informa-*
9 *tion service, shall do so through a subsidiary that is sepa-*
10 *rate from the Bell operating company or any affiliate there-*
11 *of that provides telephone exchange service.*

12 *"(b) TRANSACTION REQUIREMENTS.—Any transaction*
13 *between such a subsidiary and a Bell operating company*
14 *and any other affiliate of such company shall be conducted*
15 *on an arm's-length basis, in the same manner as the Bell*
16 *operating company conducts business with unaffiliated per-*
17 *sons, and shall not be based upon any preference or dis-*
18 *crimination in favor of the subsidiary arising out of the*
19 *subsidiary's affiliation with such company.*

20 *"(c) SEPARATE OPERATION AND PROPERTY.—A sub-*
21 *sidary required by this section shall—*

22 *"(1) operate independently from the Bell operat-*
23 *ing company or any affiliate thereof,*

24 *"(2) have separate officers, directors, and em-*
25 *ployees who may not also serve as officers, directors,*

1 *or employees of the Bell operating company or any*
2 *affiliate thereof,*

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

6 *“(4) not own any telecommunications trans-*
7 *mission or switching facilities in common with the*
8 *Bell operating company or any affiliate thereof, and*

9 *“(5) not jointly own or share the use of any*
10 *other property with the Bell operating company or*
11 *any affiliate thereof.*

12 *“(d) BOOKS, RECORDS, AND ACCOUNTS.—Any subsidi-*
13 *ary required by this section shall maintain books, records,*
14 *and accounts in a manner prescribed by the Commission*
15 *which shall be separate from the books, records, and ac-*
16 *counts maintained by a Bell operating company or any af-*
17 *iliate thereof.*

18 *“(e) PROVISION OF SERVICES AND INFORMATION.—A*
19 *Bell operating company or any affiliate thereof may not*
20 *discriminate between a subsidiary required by this section*
21 *and any other person in the provision or procurement of*
22 *goods, services, facilities, or information, or in the establish-*
23 *ment of standards, and shall not provide any goods, serv-*
24 *ices, facilities or information to a subsidiary required by*
25 *this section unless such goods, services, facilities or informa-*

1 tion are made available to others on reasonable, non-
2 discriminatory terms and conditions.

3 “(f) PREVENTION OF CROSS-SUBSIDIES.—A Bell oper-
4 ating company or any affiliate thereof required to maintain
5 a subsidiary under this section shall establish and admin-
6 ister, in accordance with the requirements of this section
7 and the regulations prescribed thereunder, a cost allocation
8 system that prohibits any cost of providing interLATA tele-
9 communications or information services from being sub-
10 sidized by revenue from telephone exchange services and
11 telephone exchange access services. The cost allocation sys-
12 tem shall employ a formula that ensures that—

13 “(1) the rates for telephone exchange services and
14 exchange access are no greater than they would have
15 been in the absence of such investment in interLATA
16 telecommunications or information services (taking
17 into account any decline in the real costs of providing
18 such telephone exchange services and exchange access);
19 and

20 “(2) such interLATA telecommunications or in-
21 formation services bear a reasonable share of the joint
22 and common costs of facilities used to provide tele-
23 phone exchange, exchange access, and competitive
24 services.

1 “(g) *ASSETS*.—The Commission shall, by regulation,
2 ensure that the economic risks associated with the provision
3 of interLATA telecommunications or information services
4 by a Bell operating company or any affiliate thereof (in-
5 cluding any increases in such company’s cost of capital that
6 occur as a result of the provision of such services) are not
7 borne by customers of telephone exchange services and ex-
8 change access in the event of a business loss or failure. In-
9 vestments or other expenditures assigned to interLATA tele-
10 communications or information services shall not be reas-
11 signed to telephone exchange service or exchange access.

12 “(h) *DEBT*.—A subsidiary required by this section
13 shall not obtain credit under any arrangement that
14 would—

15 “(1) permit a creditor, upon default, to have re-
16 source to the assets of a Bell operating company; or

17 “(2) induce a creditor to rely on the tangible or
18 intangible assets of a Bell operating company in ex-
19 tending credit.

20 “(i) *FULFILLMENT OF CERTAIN REQUESTS*.—A Bell
21 operating company or an affiliate thereof shall—

22 “(1) fulfill any requests from an unaffiliated en-
23 tity for telephone exchange service and exchange ac-
24 cess within a period no longer than the period in

1 *which it provides such telephone exchange service and*
2 *exchange access to itself or to its affiliates;*

3 “(2) *fulfill any such requests with telephone ex-*
4 *change service and exchange access of a quality that*
5 *meets or exceeds the quality of telephone exchange*
6 *services and exchange access provided by the Bell op-*
7 *erating company or its affiliates to itself or its affili-*
8 *ates; and*

9 “(3) *provide telephone exchange service and ex-*
10 *change access to all providers of intraLATA or*
11 *interLATA telephone toll services and interLATA in-*
12 *formation services at cost-based rates that are not un-*
13 *reasonably discriminatory.*

14 “(j) **CHARGES FOR ACCESS SERVICES.**—*A Bell operat-*
15 *ing company or an affiliate thereof shall charge the subsidi-*
16 *ary required by this section an amount for telephone ex-*
17 *change services, exchange access, and other necessary associ-*
18 *ated inputs no less than the rate charged to any unaffiliated*
19 *entity for such access and inputs.*

20 “(k) **SUNSET.**—*The provisions of this section shall*
21 *cease to apply in any local exchange market 3 years after*
22 *the date of enactment of this part.*

23 **“SEC. 247. UNIVERSAL SERVICE.**

24 “(a) **JOINT BOARD TO PRESERVE UNIVERSAL SERV-**
25 **ICE.**—*Within 30 days after the date of enactment of this*

1 part, the Commission shall convene a Federal-State Joint
2 Board under section 410(c) for the purpose of recommend-
3 ing actions to the Commission and State commissions for
4 the preservation of universal service in furtherance of the
5 purposes set forth in section 1 of this Act. In addition to
6 the members required under section 410(c), one member of
7 the Joint Board shall be a State-appointed utility consumer
8 advocate nominated by a national organization of State
9 utility consumer advocates.

10 “(b) *PRINCIPLES.*—The Joint Board shall base policies
11 for the preservation of universal service on the following
12 principles:

13 “(1) *JUST AND REASONABLE RATES.*—A plan
14 adopted by the Commission and the States should en-
15 sure the continued viability of universal service by
16 maintaining quality services at just and reasonable
17 rates.

18 “(2) *DEFINITIONS OF INCLUDED SERVICES; COM-*
19 *PARABILITY IN URBAN AND RURAL AREAS.*—Such
20 plan should recommend a definition of the nature and
21 extent of the services encompassed within carriers’
22 universal service obligations. Such plan should seek to
23 promote access to advanced telecommunications serv-
24 ices and capabilities, and to promote reasonably com-
25 parable services for the general public in urban and

1 *rural areas, while maintaining just and reasonable*
 2 *rates.*

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

7 *“(4) EQUITABLE AND NONDISCRIMINATORY CON-*
 8 *TRIBUTIONS.—All providers of telecommunications*
 9 *services should make an equitable and nondiscrim-*
 10 *inatory contribution to the preservation of universal*
 11 *service.*

12 *“(5) EDUCATIONAL ACCESS TO ADVANCED TELE-*
 13 *COMMUNICATIONS SERVICES.—To the extent that a*
 14 *common carrier establishes advanced telecommuni-*
 15 *cations services, such plan should include rec-*
 16 *ommendations to ensure access to advanced tele-*
 17 *communications services for students in elementary*
 18 *and secondary schools.*

19 *“(6) ADDITIONAL PRINCIPLES.—Such other prin-*
 20 *ciples as the Board determines are necessary and ap-*
 21 *propriate for the protection of the public interest, con-*
 22 *venience, and necessity and consistent with the pur-*
 23 *poses of this Act.*

24 *“(c) DEFINITION OF UNIVERSAL SERVICE.—In rec-*
 25 *ommending a definition of the nature and extent of the serv-*

1 *ices encompassed within carriers' universal service obliga-*
2 *tions under subsection (b)(2), the Joint Board shall consider*
3 *the extent to which—*

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

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

10 “(3) *such service has been deployed in the public*
11 *switched telecommunications network; and*

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

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

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

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

5 “(f) *SUNSET.*—*The Joint Board established by this sec-*
 6 *tion shall cease to exist 5 years after the date of enactment*
 7 *of this part.*

8 “**SEC. 248. PRICING FLEXIBILITY AND ABOLITION OF RATE-**
 9 **OF-RETURN REGULATION.**

10 “(a) *PRICING FLEXIBILITY.*—

11 “(1) *COMMISSION CRITERIA.*—*Within 270 days*
 12 *after the date of enactment of this part, the Commis-*
 13 *sion shall complete all actions necessary (including*
 14 *any reconsideration) to establish—*

15 “(A) *criteria for determining whether a tele-*
 16 *communications service or provider of such serv-*
 17 *ice has become, or is substantially certain to be-*
 18 *come, subject to competition, either within a geo-*
 19 *graphic area or within a class or category of*
 20 *service; and*

21 “(B) *appropriate flexible pricing procedures*
 22 *that afford a regulated provider of a service de-*
 23 *scribed in subparagraph (A) the opportunity to*
 24 *respond fairly to such competition and that ore*

1 *consistent with the protection of subscribers and*
2 *the public interest, convenience, 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, with*
9 *respect to rates for interstate or foreign communica-*
10 *tions, and State commissions, with respect to rates for*
11 *intrastate communications, shall, upon application—*

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

16 “(B) *upon a proper showing, implement*
17 *appropriate flexible pricing procedures consistent*
18 *with paragraphs (1)(B) and (2) with respect to*
19 *such services or providers.*

20 *The Commission and such State commission shall ap-*
21 *prove or reject any such application within 180 days*
22 *after the date of its submission.*

23 “(b) *ABOLITION OF RATE-OF-RETURN REGULATION.*—
24 *Notwithstanding any other provision of law, to the extent*
25 *that a carrier has complied with sections 242 and 244 of*

1 *this part, the Commission, with respect to rates for inter-*
2 *state or foreign communications, and State commissions,*
3 *with respect to rates for intrastate communications, shall*
4 *not require rate-of-return regulation.*

5 “(c) *TERMINATION OF PRICE AND OTHER REGULA-*
6 *TION.—Notwithstanding any other provision of law, to the*
7 *extent that a carrier has complied with sections 242 and*
8 *244 of this part, the Commission, with respect to interstate*
9 *or foreign communications, and State commissions, with*
10 *respect to intrastate communications, shall not, for any*
11 *service that is determined, in accordance with the criteria*
12 *established under subsection (a)(1)(A), to be subject to com-*
13 *petition that effectively prevents prices for such service that*
14 *are unjust or unreasonable or unjustly or unreasonably dis-*
15 *criminatory—*

16 “(1) *regulate the prices for such service;*

17 “(2) *require the filing of a schedule of charges for*
18 *such service;*

19 “(3) *require the filing of any cost or revenue pro-*
20 *jections for such service;*

21 “(4) *regulate the depreciation charges for facili-*
22 *ties used to provide such service; or*

23 “(5) *require prior approval for the construction*
24 *or extension of lines or other equipment for the provi-*
25 *sion of such service.*

1 “(d) *ABILITY TO CONTINUE AFFORDABLE VOICE-*
2 *GRADE SERVICE.*—*Notwithstanding subsections (a), (b),*
3 *and (c), each State commission shall, for a period of not*
4 *more than 3 years, permit residential subscribers to con-*
5 *tinue to receive only basic voice-grade local telephone service*
6 *equivalent to the service generally available to residential*
7 *subscribers on the date of enactment of this part, at just,*
8 *reasonable, and affordable rates. Determinations concerning*
9 *the affordability of rates for such services shall take into*
10 *account the rates generally available to residential subscrib-*
11 *ers on such date of enactment and the pricing rules estab-*
12 *lished by the States. Any increases in the rates for such*
13 *services for residential subscribers that are not attributable*
14 *to changes in consumer prices generally shall be permitted*
15 *in any proceeding commenced after the date of enactment*
16 *of this section upon a showing that such increase is nec-*
17 *essary to ensure the continued availability of universal serv-*
18 *ice, prevent economic disadvantages for one or more service*
19 *providers, and is in the public interest. Such increase in*
20 *rates shall be minimized to the greatest extent practical and*
21 *shall be implemented over a time period of not more than*
22 *3 years after the the date of enactment of this section. The*
23 *requirements of this subsection shall not apply to any rural*
24 *telephone company if the rates for basic voice-grade local*
25 *telephone service of that company are not subject to regula-*

1 tion by a State commission on the date of enactment of
2 this part.

3 “(e) *INTERSTATE INTEREXCHANGE SERVICE.*—The
4 rates charged by providers of interstate interexchange tele-
5 communications service to customers in rural and high cost
6 areas shall be maintained at levels no higher than those
7 charged by each such provider to its customers in urban
8 areas.

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

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

19 **“SEC. 249. NETWORK FUNCTIONALITY AND ACCESSIBILITY.**

20 “(a) *FUNCTIONALITY AND ACCESSIBILITY.*—The duty
21 of a common carrier under section 201(a) to furnish com-
22 munications service includes the duty to furnish that service
23 in accordance with any standards established pursuant to
24 this section.

1 “(b) *COORDINATION FOR INTERCONNECTIVITY.—The*
2 *Commission—*

3 “(1) *shall establish procedures for Commission*
4 *oversight of coordinated network planning by common*
5 *carriers and other providers of telecommunications*
6 *services for the effective and efficient interconnection*
7 *of public switched networks; and*

8 “(2) *may participate, in a manner consistent*
9 *with its authority and practice prior to the date of*
10 *enactment of this section, in the development by ap-*
11 *propriate industry standards-setting organizations of*
12 *interconnection standards that promote access to—*

13 “(A) *network capabilities and services by*
14 *individuals with disabilities; and*

15 “(B) *information services by subscribers to*
16 *telephone exchange service furnished by a rural*
17 *telephone company.*

18 “(c) *ACCESSIBILITY FOR INDIVIDUALS WITH DISABIL-*
19 *ITIES.—*

20 “(1) *ACCESSIBILITY.—Within 1 year after the*
21 *date of enactment of this section, the Commission*
22 *shall prescribe such regulations as are necessary to*
23 *ensure that, if readily achievable, advances in net-*
24 *work services deployed by common carriers, and tele-*
25 *communications equipment and customer premises*

1 *equipment manufactured for use in conjunction with*
2 *network services, shall be accessible and usable by in-*
3 *dividuals with disabilities, including individuals with*
4 *functional limitations of hearing, vision, movement,*
5 *manipulation, speech, and interpretation of informa-*
6 *tion. Such regulations shall permit the use of both*
7 *standard and special equipment, and seek to mini-*
8 *mize the need of individuals to acquire additional de-*
9 *vices beyond those used by the general public to ob-*
10 *tain such access. Throughout the process of developing*
11 *such regulations, the Commission shall coordinate*
12 *and consult with representatives of individuals with*
13 *disabilities and interested equipment and service pro-*
14 *viders to ensure their concerns and interests are given*
15 *full consideration in such process.*

16 “(2) *COMPATIBILITY.*—*Such regulations shall re-*
17 *quire that whenever an undue burden or adverse com-*
18 *petitive impact would result from the requirements in*
19 *paragraph (1), the local exchange carrier that deploys*
20 *the network service shall ensure that the network serv-*
21 *ice in question is compatible with existing peripheral*
22 *devices or specialized customer premises equipment*
23 *commonly used by persons with disabilities to achieve*
24 *access, unless doing so would result in an undue bur-*
25 *den or adverse competitive impact.*

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

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

8 “(B) *The impact on the operation of the fa-*
9 *ility involved in the deployment of the network*
10 *service.*

11 “(C) *The financial resources of the local ex-*
12 *change carrier.*

13 “(D) *The type of operations of the local ex-*
14 *change carrier.*

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

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

1 “(B) Whether such activity would, with re-
2 spect to the network service in question, put the
3 local exchange carrier at a competitive disadvan-
4 tage. This factor may be considered so long as
5 competing network service providers are not held
6 to the same obligation with respect to access by
7 persons with disabilities.

8 “(5) *EFFECTIVE DATE.*—The regulations re-
9 quired by this subsection shall become effective 18
10 months after the date of enactment of this part.

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

17 “**SEC. 250. MARKET ENTRY BARRIERS.**

18 “(a) *ELIMINATION OF BARRIERS.*—Within 15 months
19 after the date of enactment of this part, the Commission
20 shall complete a proceeding for the purpose of identifying
21 and eliminating, by regulations pursuant to its authority
22 under this Act (other than this section), market entry bar-
23 riers for entrepreneurs and other small businesses in the
24 provision and ownership of telecommunications services
25 and information services, or in the provision of parts or

1 *services to providers of telecommunications services and in-*
 2 *formation services.*

3 “(b) *NATIONAL POLICY.*—*In carrying out subsection*
 4 *(a), the Commission shall seek to promote the policies and*
 5 *purposes of this Act favoring diversity of points of view,*
 6 *vigorous economic competition, technological advancement,*
 7 *and promotion of the public interest, convenience, and ne-*
 8 *cessity.*

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

12 “(1) *any regulations prescribed to eliminate bar-*
 13 *riers within its jurisdiction that are identified under*
 14 *subsection (a) and that can be prescribed consistent*
 15 *with the public interest, convenience, and necessity;*
 16 *and*

17 “(2) *the statutory barriers identified under sub-*
 18 *section (a) that the Commission recommends be elimi-*
 19 *nated, consistent with the public interest, convenience,*
 20 *and necessity.*

21 ***SEC. 251. ILLEGAL CHANGES IN SUBSCRIBER CARRIER SE-**
 22 **LECTIONS.**

23 “*No common carrier shall submit or execute a change*
 24 *in a subscriber's selection of a provider of telephone ex-*
 25 *change service or telephone toll service except in accordance*

1 *with such verification procedures as the Commission shall*
2 *prescribe. Nothing in this section shall preclude any State*
3 *commission from enforcing such procedures with respect to*
4 *intrastate services.*

5 **“SEC. 252. STUDY.**

6 *“At least once every three years, the Commission shall*
7 *conduct a study that—*

8 *“(1) reviews the definition of, and the adequacy*
9 *of support for, universal service, and evaluates the ex-*
10 *tent to which universal service has been protected and*
11 *access to advanced services has been facilitated pursu-*
12 *ant to this part and the plans and regulations there-*
13 *under;*

14 *“(2) evaluates the extent to which access to ad-*
15 *vanced telecommunications services for students in el-*
16 *ementary and secondary school classrooms has been*
17 *attained pursuant to section 247(b)(5); and*

18 *“(3) determines whether the regulations estab-*
19 *lished under section 249(c) have ensured that ad-*
20 *vances in network services by providers of tele-*
21 *communications services and information services are*
22 *accessible and usable by individuals with disabilities.*

23 **“SEC. 253. TERRITORIAL EXEMPTION.**

24 *“Until 5 years after the date of enactment of this part,*
25 *the provisions of this part shall not apply to any local ex-*

1 *change carrier in any territory of the United States if (1)*
2 *the local exchange carrier is owned by the government of*
3 *such territory, and (2) on the date of enactment of this part,*
4 *the number of households in such territory subscribing to*
5 *telephone service is less than 85 percent of the total house-*
6 *holds located in such territory.”.*

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

11 **(1) part II of title II of the Act as added by sub-**
12 **section (a) of this section;**

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

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

17 **(c) DESIGNATION OF PART I.**—*Title II of the Act is*
18 *further amended by inserting before the heading of section*
19 *201 the following new heading:*

20 **“PART I—REGULATION OF DOMINANT COMMON**
21 **CARRIERS”.**

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

1 (1) *the designation and heading of each title of*
 2 *the Act shall be in the form and typeface of the des-*
 3 *ignation and heading of this title of this Act; and*

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

8 (e) *CONFORMING AMENDMENTS.—*

9 (1) *FEDERAL-STATE JURISDICTION.—Section*
 10 *2(b) of the Act (47 U.S.C. 152(b)) is amended by in-*
 11 *serting “part II of title II,” after “227, inclusive,”.*

12 (2) *FORFEITURES.—Sections 503(b)(1) and*
 13 *504(b) of such Act (47 U.S.C. 503(b)) are each*
 14 *amended by inserting “part I of” before “title II”.*

15 **SEC. 102. COMPETITION IN MANUFACTURING, INFORMA-**
 16 **TION SERVICES, ALARM SERVICES, AND PAY-**
 17 **PHONE SERVICES.**

18 (a) *COMPETITION IN MANUFACTURING, INFORMATION*
 19 *SERVICES, AND ALARM SERVICES.—Title II of the Act is*
 20 *amended by adding at the end of part II (as added by sec-*
 21 *tion 101) the following new part:*

1 **"PART III—SPECIAL AND TEMPORARY**
2 **PROVISIONS**

3 **"SEC. 271. MANUFACTURING BY BELL OPERATING COMPA-**
4 **NIES.**

5 **"(a) ACCESS AND INTERCONNECTION.—***It shall be un-*
6 *lawful for a Bell operating company, directly or through*
7 *an affiliate, to manufacture telecommunications equipment*
8 *or customer premises equipment, until the Commission has*
9 *approved under section 245(c) verifications that such Bell*
10 *operating company, and each Bell operating company with*
11 *which it is affiliated, are in compliance with the access and*
12 *interconnection requirements of part II of this title.*

13 **"(b) COLLABORATION.—***Subsection (a) shall not pro-*
14 *hibit a Bell operating company from engaging in close col-*
15 *laboration with any manufacturer of customer premises*
16 *equipment or telecommunications equipment during the de-*
17 *sign and development of hardware, software, or combina-*
18 *tions thereof related to such equipment.*

19 **"(c) INFORMATION REQUIREMENTS.—**

20 **"(1) INFORMATION ON PROTOCOLS AND TECH-**
21 *NICAL REQUIREMENTS.—Each Bell operating com-*
22 *pany shall, in accordance with regulations prescribed*
23 *by the Commission, maintain and file with the Com-*
24 *mission full and complete information with respect to*
25 *the protocols and technical requirements for connec-*
26 *tion with and use of its telephone exchange service fa-*

1 *cilities. Each such company shall report promptly to*
2 *the Commission any material changes or planned*
3 *changes to such protocols and requirements, and the*
4 *schedule for implementation of such changes or*
5 *planned changes.*

6 *“(2) DISCLOSURE OF INFORMATION.—A Bell op-*
7 *erating company shall not disclose any information*
8 *required to be filed under paragraph (1) unless that*
9 *information has been filed promptly, as required by*
10 *regulation by the Commission.*

11 *“(3) ACCESS BY COMPETITORS TO INFORMA-*
12 *TION.—The Commission may prescribe such addi-*
13 *tional regulations under this subsection as may be*
14 *necessary to ensure that manufacturers have access to*
15 *the information with respect to the protocols and tech-*
16 *nical requirements for connection with and use of*
17 *telephone exchange service facilities that a Bell oper-*
18 *ating company makes available to any manufactur-*
19 *ing affiliate or any unaffiliated manufacturer.*

20 *“(4) PLANNING INFORMATION.—Each Bell oper-*
21 *ating company shall provide, to contiguous common*
22 *carriers providing telephone exchange service, timely*
23 *information on the planned deployment of tele-*
24 *communications equipment.*

1 “(d) *MANUFACTURING LIMITATIONS FOR STANDARD-*
2 *SETTING ORGANIZATIONS.—*

3 “(1) *BELL COMMUNICATIONS RESEARCH.—The*
4 *Bell Communications Research Corporation, or any*
5 *successor entity, shall not engage in manufacturing*
6 *telecommunications equipment or customer premises*
7 *equipment so long as—*

8 “(A) *such Corporation or entity is owned,*
9 *in whole or in part, by one or more Bell operat-*
10 *ing companies; or*

11 “(B) *such Corporation or entity engages in*
12 *establishing standards for telecommunications*
13 *equipment, customer premises equipment, or tele-*
14 *communications services, or any product certifi-*
15 *cation activities with respect to telecommuni-*
16 *cations equipment or customer premises equip-*
17 *ment.*

18 “(2) *PARTICIPATION IN STANDARD SETTING;*
19 *PROTECTION OF PROPRIETARY INFORMATION.—Any*
20 *entity (including such Corporation) that engages in*
21 *establishing standards for—*

22 “(A) *telecommunications equipment, cus-*
23 *tomers premises equipment, or telecommuni-*
24 *cations services, or*

1 “(B) any product certification activities
2 with respect to telecommunications equipment or
3 customer premises equipment,
4 for one or more Bell operating companies shall allow
5 any other person to participate fully in such activi-
6 ties on a nondiscriminatory basis. Any such entity
7 shall protect proprietary information submitted for
8 review in the standards-setting and certification proc-
9 esses from release not specifically authorized by the
10 owner of such information, even after such entity
11 ceases to be so engaged.

12 “(e) *BELL OPERATING COMPANY EQUIPMENT PRO-*
13 *CUREMENT AND SALES.—*

14 “(1) *OBJECTIVE BASIS.—*Each Bell operating
15 company and any entity acting on behalf of a Bell
16 operating company shall make procurement decisions
17 and award all supply contracts for equipment, serv-
18 ices, and software on the basis of an objective assess-
19 ment of price, quality, delivery, and other commercial
20 factors.

21 “(2) *SALES RESTRICTIONS.—*A Bell operating
22 company engaged in manufacturing may not restrict
23 sales to any local exchange carrier of telecommuni-
24 cations equipment, including software integral to the
25 operation of such equipment and related upgrades.

1 “(3) *PROTECTION OF PROPRIETARY INFORMA-*
2 *TION.—A Bell operating company and any entity it*
3 *owns or otherwise controls shall protect the propri-*
4 *etary information submitted for procurement deci-*
5 *sions from release not specifically authorized by the*
6 *owner of such information.*

7 “(f) *ADMINISTRATION AND ENFORCEMENT AUTHOR-*
8 *ITY.—For the purposes of administering and enforcing the*
9 *provisions of this section and the regulations prescribed*
10 *thereunder, the Commission shall have the same authority,*
11 *power, and functions with respect to any Bell operating*
12 *company or any affiliate thereof as the Commission has in*
13 *administering and enforcing the provisions of this title with*
14 *respect to any common carrier subject to this Act.*

15 “(g) *EXCEPTION FOR PREVIOUSLY AUTHORIZED AC-*
16 *TIVITIES.—Nothing in this section shall prohibit a Bell op-*
17 *erating company or affiliate from engaging, at any time*
18 *after the date of the enactment of this part, in any activity*
19 *as authorized by an order entered by the United States Dis-*
20 *trict Court for the District of Columbia pursuant to section*
21 *VII or VIII(C) of the Modification of Final Judgment, if—*

22 “(1) *such order was entered on or before the date*
23 *of the enactment of this part, or*

1 “(2) a request for such authorization was pend-
 2 ing before such court on the date of the enactment of
 3 this part.

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

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

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

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

20 “(b) SEPARATED AFFILIATE OR ELECTRONIC PUB-
 21 LISHING JOINT VENTURE REQUIREMENTS.—A separated
 22 affiliate or electronic publishing joint venture shall be oper-
 23 ated independently from the Bell operating company. Such
 24 separated affiliate or joint venture and the Bell operating
 25 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 the
6 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 transferred,
17 in accordance with such regulations as may be pre-
18 scribed by the Commission or a State commission to
19 prevent improper cross subsidies;

20 “(5) between a separated affiliate and a Bell op-
21 erating company—

22 “(A) have no officers, directors, and employ-
23 ees in common after the effective date of this sec-
24 tion; and

25 “(B) own no property in common;

1 “(6) not use for the marketing of any product or
2 service of the separated affiliate or joint venture, the
3 name, trademarks, or service marks of an existing
4 Bell operating company except for names, trade-
5 marks, or service marks that are or were used in com-
6 mon with the entity that owns or controls the Bell op-
7 erating 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 service
14 that it provides under tariff or contract subject
15 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 compliance
19 review—

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

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

1 *Bell operating company for a period of 5 years*
2 *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 sub-*
7 *ject to reasonable safeguards to protect any propri-*
8 *etary information contained in such report from*
9 *being used for purposes other than to enforce or pur-*
10 *sue 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 affli-*
21 *ate that is related to the provision of electronic*
22 *publishing.*

23 “(2) *PERMISSIBLE JOINT ACTIVITIES.—*

24 “(A) *JOINT TELEMARKETING.—A Bell oper-*
25 *ating company may provide inbound*

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

10 *“(B) TEAMING ARRANGEMENTS.—A Bell op-*
11 *erating company may engage in nondiscrim-*
12 *inatory teaming or business arrangements to en-*
13 *gage in electronic publishing with any separated*
14 *affiliate or with any other electronic publisher if*
15 *(i) the Bell operating company only provides fa-*
16 *cilities, services, and basic telephone service in-*
17 *formation as authorized by this section, and (ii)*
18 *the Bell operating company does not own such*
19 *teaming or business arrangement.*

20 *“(C) ELECTRONIC PUBLISHING JOINT VEN-*
21 *TURES.—A Bell operating company or affiliate*
22 *may participate on a nonexclusive basis in elec-*
23 *tronic 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 percent*
3 *direct or indirect equity interest (or the equiva-*
4 *lent thereof) or the right to more than 50 percent*
5 *of the gross revenues under a revenue sharing or*
6 *royalty agreement in any electronic publishing*
7 *joint venture. Officers and employees of a Bell*
8 *operating company or affiliate participating in*
9 *an electronic publishing joint venture may not*
10 *have more than 50 percent of the voting control*
11 *over the electronic publishing joint venture. In*
12 *the case of joint ventures with small, local elec-*
13 *tronic publishers, the Commission for good cause*
14 *shown may authorize the Bell operating com-*
15 *pany or affiliate to have a larger equity interest,*
16 *revenue share, or voting control but not to exceed*
17 *80 percent. A Bell operating company partici-*
18 *parting in an electronic publishing joint venture*
19 *may provide promotion, marketing, sales, or ad-*
20 *vertising personnel and services to such joint*
21 *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) of*
8 *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 a*
13 *violation of this section may make application to the*
14 *Commission for an order to cease and desist such vio-*
15 *lation or may make application in any district court*
16 *of the United States of competent jurisdiction for an*
17 *order enjoining such acts or practices or for an order*
18 *compelling compliance with such requirement.*

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

24 *“(f) EFFECTIVE DATES.—*

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

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

9 “(g) *DEFINITION OF ELECTRONIC PUBLISHING.*—

10 “(1) *IN GENERAL.*—The term ‘electronic publish-
11 ing’ means the dissemination, provision, publication,
12 or sale to an unaffiliated entity or person, of any one
13 or more of the following: news (including sports); en-
14 tertainment (other than interactive games); business,
15 financial, legal, consumer, or credit materials; edi-
16 torials, columns, or features; advertising; photos or
17 images; archival or research material; legal notices or
18 public records; scientific, educational, instructional,
19 technical, professional, trade, or other literary mate-
20 rials; or other like or similar information.

21 “(2) *EXCEPTIONS.*—The term ‘electronic publish-
22 ing’ shall not include the following services:

23 “(A) Information access, as that term is de-
24 fined by the Modification of Final Judgment.

1 “(B) *The transmission of information as a*
2 *common carrier.*

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

13 “(D) *Voice storage and retrieval services,*
14 *including voice messaging and electronic mail*
15 *services.*

16 “(E) *Data processing or transaction proc-*
17 *essing services that do not involve the generation*
18 *or alteration of the content of information.*

19 “(F) *Electronic billing or advertising of a*
20 *Bell operating company's regulated telecommuni-*
21 *cations services.*

22 “(G) *Language translation or data format*
23 *conversion.*

24 “(H) *The provision of information nec-*
25 *essary for the management, control, or operation*

1 of a telephone company telecommunications sys-
2 tem.

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

6 “(J) Caller identification services.

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

10 “(L) 911-E and other emergency assistance
11 databases.

12 “(M) Any other network service of a type
13 that is like or similar to these network services
14 and that does not involve the generation or alter-
15 ation of the content of information.

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

19 “(O) Video programming or full motion
20 video entertainment on demand.

21 “(h) **ADDITIONAL DEFINITIONS.—**As used in this sec-
22 tion—

23 “(1) The term ‘affiliate’ means any entity that,
24 directly or indirectly, owns or controls, is owned or
25 controlled by, or is under common ownership or con-

1 *trol with, a Bell operating company. Such term shall*
2 *not include a separated affiliate.*

3 *“(2) The term ‘basic telephone service’ means*
4 *wireline telephone exchange service provided by a Bell*
5 *operating company in a telephone exchange area, ex-*
6 *cept that such term does not include—*

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

12 *“(B) a commercial mobile service.*

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

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

24 *“(5) The term ‘electronic publishing joint ven-*
25 *ture’ means a joint venture owned by a Bell operating*

1 *company or affiliate that engages in the provision of*
2 *electronic publishing which is disseminated by means*
3 *of such Bell operating company's or any of its affili-*
4 *ates' basic telephone service.*

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

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

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

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

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

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

9 “(a) *DELAYED ENTRY INTO ALARM MONITORING.*—

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

14 “(2) *EXISTING ACTIVITIES.*—Paragraph (1) shall
15 not apply to any provision of alarm monitoring serv-
16 ices in which a Bell operating company or affiliate
17 is lawfully engaged as of January 1, 1995, except that
18 such Bell operating company or any affiliate may not
19 acquire or otherwise obtain control of additional enti-
20 ties providing alarm monitoring services after such
21 date.

22 “(b) *NONDISCRIMINATION.*—A common carrier en-
23 gaged in the provision of alarm monitoring services or
24 telemessaging services shall—

1 “(1) provide nonaffiliated entities, upon reason-
2 able request, with the network services it provides to
3 its own alarm monitoring or telemessaging oper-
4 ations, on nondiscriminatory terms and conditions;
5 and

6 “(2) not subsidize its alarm monitoring services
7 or its telemessaging services either directly or indi-
8 rectly from telephone exchange service operations.

9 “(c) *EXPEDITED CONSIDERATION OF COMPLAINTS.*—
10 *The Commission shall establish procedures for the receipt*
11 *and review of complaints concerning violations of sub-*
12 *section (b) or the regulations thereunder that result in mate-*
13 *rial financial harm to a provider of alarm monitoring serv-*
14 *ice or telemessaging service. Such procedures shall ensure*
15 *that the Commission will make a final determination with*
16 *respect to any such complaint within 120 days after receipt*
17 *of the complaint. If the complaint contains an appropriate*
18 *showing that the alleged violation occurred, as determined*
19 *by the Commission in accordance with such regulations, the*
20 *Commission shall, within 60 days after receipt of the com-*
21 *plaint, order the common carrier and its affiliates to cease*
22 *engaging in such violation pending such final determina-*
23 *tion.*

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

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

5 “(A) *to receive signals from other devices lo-*
6 *cated at or about such premises regarding a possi-*
7 *ble threat at such premises to life, safety, or*
8 *property, from burglary, fire, vandalism, bodily*
9 *injury, or other emergency, and*

10 “(B) *to transmit a signal regarding such*
11 *threat by means of transmission facilities of a*
12 *Bell operating company or one of its affiliates to*
13 *a remote monitoring center to alert a person at*
14 *such center of the need to inform the customer or*
15 *another person or police, fire, rescue, security, or*
16 *public safety personnel of such threat,*
17 *but does not include a service that uses a medical*
18 *monitoring device attached to an individual for the*
19 *automatic surveillance of an ongoing medical condi-*
20 *tion.*

21 “(2) *TELEMESSAGING SERVICES.*—*The term*
22 *‘telemessaging services’ means voice mail and voice*
23 *storage and retrieval services provided over telephone*
24 *lines for telemessaging customers and any live opera-*
25 *tor services used to answer, record, transcribe, and*

1 *relay messages (other than telecommunications relay*
 2 *services) from incoming telephone calls on behalf of*
 3 *the telemessaging customers (other than any service*
 4 *incidental to directory assistance).*

5 **“SEC. 274. PROVISION OF PAYPHONE SERVICE.**

6 “(a) *NONDISCRIMINATION SAFEGUARDS.—After the ef-*
 7 *fective date of the rules prescribed pursuant to subsection*
 8 *(b), any Bell operating company that provides payphone*
 9 *service—*

10 “(1) *shall not subsidize its payphone service di-*
 11 *rectly or indirectly with revenue from its telephone*
 12 *exchange service or its exchange access service; and*

13 “(2) *shall not prefer or discriminate in favor of*
 14 *it payphone service.*

15 “(b) *REGULATIONS.—*

16 “(1) *CONTENTS OF REGULATIONS.—In order to*
 17 *promote competition among payphone service provid-*
 18 *ers and promote the widespread deployment of*
 19 *payphone services to the benefit of the general public,*
 20 *within 9 months after the date of enactment of this*
 21 *section, the Commission shall take all actions nec-*
 22 *essary (including any reconsideration) to prescribe*
 23 *regulations that—*

24 “(A) *establish a per call compensation plan*
 25 *to ensure that all payphone services providers*

1 *are fairly compensated for each and every com-*
2 *pleted intrastate and interstate call using their*
3 *payphone, except that emergency calls and tele-*
4 *communications relay service calls for hearing*
5 *disabled individuals shall not be subject to such*
6 *compensation;*

7 “(B) *discontinue the intrastate and inter-*
8 *state carrier access charge payphone service ele-*
9 *ments and payments in effect on the date of en-*
10 *actment of this section, and all intrastate and*
11 *interstate payphone subsidies from basic ex-*
12 *change and exchange access revenues, in favor of*
13 *a compensation plan as specified in subpara-*
14 *graph (A);*

15 “(C) *prescribe a set of nonstructural safe-*
16 *guards for Bell operating company payphone*
17 *service to implement the provisions of para-*
18 *graphs (1) and (2) of subsection (a), which safe-*
19 *guards shall, at a minimum, include the non-*
20 *structural safeguards equal to those adopted in*
21 *the Computer Inquiry-III CC Docket No. 90-623*
22 *proceeding; and*

23 “(D) *provide for Bell operating company*
24 *payphone service providers to have the same*
25 *right that independent payphone providers have*

1 to negotiate with the location provider on select-
2 ing and contracting with, and, subject to the
3 terms of any agreement with the location pro-
4 vider, to select and contract with the carriers
5 that carry interLATA calls from their
6 payphones, and provide for all payphone service
7 providers to have the right to negotiate with the
8 location provider on selecting and contracting
9 with, and, subject to the terms of any agreement
10 with the location provider, to select and contract
11 with the carriers that carry intraLATA calls
12 from their payphones.

13 “(2) PUBLIC INTEREST TELEPHONES.—In the
14 rulemaking conducted pursuant to paragraph (1), the
15 Commission shall determine whether public interest
16 payphones, which are provided in the interest of pub-
17 lic health, safety, and welfare, in locations where
18 there would otherwise not be a payphone, should be
19 maintained, and if so, ensure that such public inter-
20 est payphones are supported fairly and equitably.

21 “(3) EXISTING CONTRACTS.—Nothing in this sec-
22 tion shall affect any existing contracts between loca-
23 tion providers and payphone service providers or
24 interLATA or intraLATA carriers that are in force
25 and effect as of the date of the enactment of this Act.

1 “(c) *STATE PREEMPTION.*—*To the extent that any*
2 *State requirements are inconsistent with the Commission’s*
3 *regulations, the Commission’s regulations on such matters*
4 *shall preempt State requirements.*

5 “(d) *DEFINITION.*—*As used in this section, the term*
6 *‘payphone service’ means the provision of public or semi-*
7 *public pay telephones, the provision of inmate telephone*
8 *service in correctional institutions, and any ancillary serv-*
9 *ices.”.*

10 **SEC. 103. FORBEARANCE FROM REGULATION.**

11 *Part I of title II of the Act (as redesignated by section*
12 *101(c) of this Act) is amended by inserting after section*
13 *229 (47 U.S.C. 229) the following new section:*

14 **“SEC. 230. FORBEARANCE FROM REGULATION.**

15 “(a) *AUTHORITY TO FORBEAR.*—*The Commission*
16 *shall forbear from applying any provision of this part or*
17 *part II (other than sections 201, 202, 208, 243, and 248),*
18 *or any regulation thereunder, to a common carrier or serv-*
19 *ice, or class of carriers or services, in any or some of its*
20 *or their geographic markets, if the Commission determines*
21 *that—*

22 “(1) *enforcement of such provision or regulation*
23 *is not necessary to ensure that the charges, practices,*
24 *classifications, or regulations by, for, or in connection*

1 with that carrier or service are just and reasonable
2 and are not unjustly or unreasonably discriminatory;

3 “(2) enforcement of such regulation or provision
4 is not necessary for the protection of consumers; and

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

7 “(b) **COMPETITIVE EFFECT TO BE WEIGHED.**—In
8 making the determination under subsection (a)(3), the Com-
9 mission shall consider whether forbearance from enforcing
10 the provision or regulation will promote competitive market
11 conditions, including the extent to which such forbearance
12 will enhance competition among providers of telecommuni-
13 cations services. If the Commission determines that such
14 forbearance will promote competition among providers of
15 telecommunications services, that determination may be the
16 basis for a Commission finding that forbearance is in the
17 public interest.”.

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

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

22 “**SEC. 222. PRIVACY OF CUSTOMER PROPRIETARY NETWORK**
23 **INFORMATION.**

24 “(a) **SUBSCRIBER LIST INFORMATION.**—Notwith-
25 standing subsections (b), (c), and (d), a carrier that pro-

1 *vides local exchange service shall provide subscriber list in-*
2 *formation gathered in its capacity as a provider of such*
3 *service on a timely and unbundled basis, under nondiscrim-*
4 *inatory and reasonable rates, terms, and conditions, to any*
5 *person upon request for the purpose of publishing direc-*
6 *tories in any format.*

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

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

12 “(A) *use customer proprietary network in-*
13 *formation in the provision of any service except*
14 *to the extent necessary (i) in the provision of*
15 *common carrier services, (ii) in the provision of*
16 *a service necessary to or used in the provision of*
17 *common carrier services, including the publish-*
18 *ing of directories, or (iii) to continue to provide*
19 *a particular information service that the carrier*
20 *provided as of May 1, 1995, to persons who were*
21 *customers of such service on that date;*

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

1 *the telephone exchange service or telephone toll*
2 *service from which such information is derived;*

3 “(C) *use customer proprietary network in-*
4 *formation in the provision of customer premises*
5 *equipment; or*

6 “(D) *disclose customer proprietary network*
7 *information to any person except to the extent*
8 *necessary to permit such person to provide serv-*
9 *ices or products that are used in and necessary*
10 *to the provision by such carrier of the services*
11 *described in subparagraph (A);*

12 “(2) *shall disclose customer proprietary network*
13 *information, upon affirmative written request by the*
14 *customer, to any person designated by the customer;*

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

21 “(4) *except for disclosures permitted by para-*
22 *graph (1)(D), shall not unreasonably discriminate be-*
23 *tween affiliated and unaffiliated service or equipment*
24 *providers in providing access to, or in the use and*

1 *disclosure of, individual and aggregate information*
2 *made available consistent with this subsection.*

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

6 *“(1) to render, bill, and collect for the services*
7 *identified in subsection (b)(1)(A);*

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

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

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

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

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

1 *ments would impose an undue economic burden on the car-*
2 *rier.*

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

4 *“(1) CUSTOMER PROPRIETARY NETWORK INFOR-*
5 *MATION.—The term ‘customer proprietary network*
6 *information’ means—*

7 *“(A) information which relates to the quan-*
8 *tity, technical configuration, type, destination,*
9 *and amount of use of telephone exchange service*
10 *or telephone toll service subscribed to by any cus-*
11 *tomers of a carrier, and is made available to the*
12 *carrier by the customer solely by virtue of the*
13 *carrier-customer relationship;*

14 *“(B) information contained in the bills per-*
15 *taining to telephone exchange service or telephone*
16 *toll service received by a customer of a carrier;*
17 *and*

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

1 *except that such term does not include subscriber list*
2 *information.*

3 “(2) *SUBSCRIBER LIST INFORMATION.*—*The term*
4 *‘subscriber list information’ means any informa-*
5 *tion—*

6 “(A) *identifying the listed names of sub-*
7 *scribers of a carrier and such subscribers’ tele-*
8 *phone numbers, addresses, or primary advertis-*
9 *ing classifications (as such classifications are as-*
10 *signed at the time of the establishment of such*
11 *service), or any combination of such listed*
12 *names, numbers, addresses, or classifications;*
13 *and*

14 “(B) *that the carrier or an affiliate has*
15 *published, caused to be published, or accepted for*
16 *publication in any directory format.*

17 “(3) *AGGREGATE INFORMATION.*—*The term ‘ag-*
18 *gregate information’ means collective data that relates*
19 *to a group or category of services or customers, from*
20 *which individual customer identities and characteris-*
21 *tics have been removed.”.*

22 (b) *CONVERGING COMMUNICATIONS TECHNOLOGIES*
23 *AND CONSUMER PRIVACY.—*

1 (1) *COMMISSION EXAMINATION.*—*Within one*
2 *year after the date of enactment of this Act, the Com-*
3 *mission shall commence a proceeding—*

4 (A) *to examine the impact of the integra-*
5 *tion into interconnected communications net-*
6 *works of wireless telephone, cable, satellite, and*
7 *other technologies on the privacy rights and rem-*
8 *edies of the consumers of those technologies;*

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

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

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

1 (E) to prepare recommendations to the Con-
2 gress for any legislative changes required to cor-
3 rect such defects.

4 (2) *SUBJECTS FOR EXAMINATION.*—*In conduct-*
5 *ing the examination required by paragraph (1), the*
6 *Commission shall determine whether consumers are*
7 *able, and, if not, the methods by which consumers*
8 *may be enabled—*

9 (A) *to have knowledge that consumer infor-*
10 *mation is being collected about them through*
11 *their utilization of various communications tech-*
12 *nologies;*

13 (B) *to have notice that such information*
14 *could be used, or is intended to be used, by the*
15 *entity collecting the data for reasons unrelated to*
16 *the original communications, or that such infor-*
17 *mation could be sold (or is intended to be sold)*
18 *to other companies or entities; and*

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

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

24 (A) *complete any rulemaking required to re-*
25 *visе Commission regulations to correct defects in*

1 *such regulations identified pursuant to para-*
2 *graph (1); and*

3 *(B) submit to the Congress a report con-*
4 *taining the recommendations required by para-*
5 *graph (1)(C).*

6 **SEC. 105. POLE ATTACHMENTS.**

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

8 *(1) in subsection (a)(4)—*

9 *(A) by inserting after “system” the follow-*
10 *ing: “or a provider of telecommunications serv-*
11 *ice”; and*

12 *(B) by inserting after “utility” the follow-*
13 *ing: “, which attachment may be used by such*
14 *entities to provide cable service or any tele-*
15 *communications service”;*

16 *(2) in subsection (c)(2)(B), by striking “cable tel-*
17 *evision services” and inserting “the services offered*
18 *via such attachments”;*

19 *(3) by redesignating subsection (d)(2) as sub-*
20 *section (d)(4); and*

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

23 *“(d)(1) For purposes of subsection (b) of this section,*
24 *the Commission shall, no later than 1 year after the date*
25 *of enactment of the Communications Act of 1995, prescribe*

1 *regulations for ensuring that utilities charge just and rea-*
2 *sonable and nondiscriminatory rates for pole attachments*
3 *provided to all providers of telecommunications services, in-*
4 *cluding such attachments used by cable television systems*
5 *to provide telecommunications services (as defined in sec-*
6 *tion 3 of this Act). Such regulations shall—*

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

12 “(B) recognize that the usable space is of propor-
13 tional benefit to all entities attaching to the pole,
14 duct, conduit or right-of-way and therefore apportion
15 the cost of the usable space according to the percent-
16 age of usable space required for each entity; and

17 “(C) allow for reasonable terms and conditions
18 relating to health, safety, and the provision of reliable
19 utility service.

20 “(2) The final regulations prescribed by the Commis-
21 sion pursuant to paragraph (1) shall not apply to a cable
22 television system that solely provides cable service as defined
23 in section 602(6) of this Act; instead, the pole attachment
24 rate for such systems shall assure a utility the recovery of
25 not less than the additional costs of providing pole attach-

1 ments, nor more than an amount determined by multiply-
 2 ing the percentage of the total usable space, or the percent-
 3 age of the total duct or conduit capacity, which is occupied
 4 by the pole attachment by the sum of the operating expenses
 5 and actual capital costs of the utility attributable to the
 6 entire pole, duct, conduit, or right-of-way.

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

17 **SEC. 106. PREEMPTION OF FRANCHISING AUTHORITY REG-**
 18 **ULATION OF TELECOMMUNICATIONS SERV-**
 19 **ICES.**

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

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

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

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

5 “(B) A franchising authority may not impose any re-
6 quirement that has the purpose or effect of prohibiting, lim-
7 iting, restricting, or conditioning the provision of a tele-
8 communications service by a cable operator or an affiliate
9 thereof.

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

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

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

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

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

5 **SEC. 107. FACILITIES SITING; RADIO FREQUENCY EMISSION**
 6 **STANDARDS.**

7 **(a) NATIONAL WIRELESS TELECOMMUNICATIONS**
 8 **SITING POLICY.**—Section 332(c) of the Act (47 U.S.C.
 9 332(c)) is amended by adding at the end the following new
 10 paragraph:

11 **“(7) FACILITIES SITING POLICIES.—(A) Within**
 12 **180 days after enactment of this paragraph, the Com-**
 13 **mission shall prescribe and make effective a policy re-**
 14 **garding State and local regulation of the placement,**
 15 **construction, modification, or operation of facilities**
 16 **for the provision of commercial mobile services.**

17 **“(B) Pursuant to subchapter III of chapter 5,**
 18 **title 5, United States Code, the Commission shall es-**
 19 **tablish a negotiated rulemaking committee to nego-**
 20 **tiate and develop a proposed policy to comply with**
 21 **the requirements of this paragraph. Such committee**
 22 **shall include representatives from State and local gov-**
 23 **ernments, affected industries, and public safety agen-**
 24 **cies. In negotiating and developing such a policy, the**
 25 **committee shall take into account—**

1 “(i) the desirability of enhancing the cov-
2 erage and quality of commercial mobile services
3 and fostering competition in the provision of
4 such services;

5 “(ii) the legitimate interests of State and
6 local governments in matters of exclusively local
7 concern;

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

10 “(iv) the administrative costs to State and
11 local governments of reviewing requests for au-
12 thorization to locate facilities for the provision of
13 commercial mobile services.

14 “(C) The policy prescribed pursuant to this
15 paragraph shall ensure that—

16 “(i) regulation of the placement, construc-
17 tion, and modification of facilities for the provi-
18 sion of commercial mobile services by any State
19 or local government or instrumentality thereof—

20 “(I) is reasonable, nondiscriminatory,
21 and limited to the minimum necessary to
22 accomplish the State or local government’s
23 legitimate purposes; and

1 “(II) does not prohibit or have the ef-
2 fect of precluding any commercial mobile
3 service; and

4 “(ii) a State or local government or instru-
5 mentality thereof shall act on any request for au-
6 thorization to locate, construct, modify, or oper-
7 ate facilities for the provision of commercial mo-
8 bile services within a reasonable period of time
9 after the request is fully filed with such govern-
10 ment or instrumentality; and

11 “(iii) any decision by a State or local gov-
12 ernment or instrumentality thereof to deny a re-
13 quest for authorization to locate, construct, mod-
14 ify, or operate facilities for the provision of com-
15 mercial mobile services shall be in writing and
16 shall be supported by substantial evidence con-
17 tained in a written record.

18 “(D) The policy prescribed pursuant to this
19 paragraph shall provide that no State or local govern-
20 ment or any instrumentality thereof may regulate the
21 placement, construction, modification, or operation of
22 such facilities on the basis of the environmental effects
23 of radio frequency emissions, to the extent that such
24 facilities comply with the Commission’s regulations
25 concerning such emissions.

1 “(E) In accordance with subchapter III of chap-
2 ter 5, title 5, United States Code, the Commission
3 shall periodically establish a negotiated rulemaking
4 committee to review the policy prescribed by the Com-
5 mission under this paragraph and to recommend re-
6 visions to such policy.”.

7 (b) *RADIO FREQUENCY EMISSIONS.*—Within 180 days
8 after the enactment of this Act, the Commission shall com-
9 plete action in *ET Docket 93-62* to prescribe and make ef-
10 fective rules regarding the environmental effects of radio fre-
11 quency emissions.

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

1 *use of the property, rights-of-way, and easements in ques-*
2 *tion. Reasonable cost-based fees may be charged to providers*
3 *of such telecommunications services for use of property,*
4 *rights-of-way, and easements. The Commission shall pro-*
5 *vide technical support to States to encourage them to make*
6 *property, rights-of-way, and easements under their jurisdic-*
7 *tion available for such purposes.*

8 **SEC. 108. MOBILE SERVICE ACCESS TO LONG DISTANCE**
9 **CARRIERS.**

10 (a) *AMENDMENT.—Section 332(c) of the Act (47*
11 *U.S.C. 332(c)) is amended by adding at the end the follow-*
12 *ing new paragraph:*

13 “(8) *MOBILE SERVICES ACCESS.—(A) The Com-*
14 *mission shall prescribe regulations to afford subscrib-*
15 *ers of two-way switched voice commercial mobile*
16 *radio services access to a provider of telephone toll*
17 *service of the subscriber’s choice, except to the extent*
18 *that the commercial mobile radio service is provided*
19 *by satellite. The Commission may exempt carriers or*
20 *classes of carriers from the requirements of such regu-*
21 *lations to the extent the Commission determines such*
22 *exemption is consistent with the public interest, con-*
23 *venience, and necessity. For purposes of this para-*
24 *graph, ‘access’ shall mean access to a provider of tele-*

1 *phone toll service through the use of carrier identifica-*
 2 *tion codes assigned to each such provider.*

3 *“(B) The regulations prescribed by the Commis-*
 4 *sion pursuant to subparagraph (A) shall supersede*
 5 *any inconsistent requirements imposed by the Modi-*
 6 *fication of Final Judgment or any order in United*
 7 *States v. AT&T Corp. and McCaw Cellular Commu-*
 8 *nications, Inc., Civil Action No. 94-01555 (United*
 9 *States District Court, District of Columbia).”.*

10 **(b) EFFECTIVE DATE CONFORMING AMENDMENT.—**
 11 *Section 6002(c)(2)(B) of the Omnibus Budget Reconcili-*
 12 *ation Act of 1993 is amended by striking “section*
 13 *332(c)(6)” and inserting “paragraphs (6) and (8) of section*
 14 *332(c)”.*

15 **SEC. 109. FREEDOM FROM TOLL FRAUD.**

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

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

20 **“(C) the calling party being charged for in-**
 21 **formation conveyed during the call unless—**

22 **“(i) the calling party has a written**
 23 **subscription agreement with the informa-**
 24 **tion provider that meets the requirements of**
 25 **paragraph (8); or**

1 “(ii) the calling party is charged in
2 accordance with paragraph (9); or”; and
3 (2) by adding at the end the following new para-
4 graphs:

5 “(8) **SUBSCRIPTION AGREEMENTS FOR BILLING**
6 **FOR INFORMATION PROVIDED VIA TOLL-FREE**
7 **CALLS.—**

8 “(A) **IN GENERAL.—**For purposes of para-
9 graph (7)(C)(i), a written subscription agree-
10 ment shall specify the terms and conditions
11 under which the information is offered and in-
12 clude—

13 “(i) the rate at which charges are as-
14 sessed for the information;

15 “(ii) the information provider’s name;

16 “(iii) the information provider’s busi-
17 ness address;

18 “(iv) the information provider’s regu-
19 lar business telephone number;

20 “(v) the information provider’s agree-
21 ment to notify the subscriber at least 30
22 days in advance of all future changes in the
23 rates charged for the information;

1 “(vi) the signature of a legally com-
2 petent subscriber agreeing to the terms of
3 the agreement; and

4 “(vii) the subscriber’s choice of pay-
5 ment method, which may be by phone bill
6 or credit, prepaid, or calling card.

7 “(B) BILLING ARRANGEMENTS.—If a sub-
8 scriber elects, pursuant to subparagraph (A)(vii),
9 to pay by means of a phone bill—

10 “(i) the agreement shall clearly explain
11 that the subscriber will be assessed for calls
12 made to the information service from the
13 subscriber’s phone line;

14 “(ii) the phone bill shall include, in
15 prominent type, the following disclaimer:

16 ‘Common carriers may not dis-
17 connect local or long distance telephone
18 service for failure to pay disputed
19 charges for information services.’; and

20 “(iii) the phone bill shall clearly list
21 the 800 number dialed.

22 “(C) USE OF PIN’S TO PREVENT UNAUTHOR-
23 IZED USE.—A written agreement does not meet
24 the requirements of this paragraph unless it pro-
25 vides the subscriber a personal identification

1 *number to obtain access to the information pro-*
2 *vided, and includes instructions on its use.*

3 “(D) *EXCEPTIONS.—Notwithstanding para-*
4 *graph (7)(C), a written agreement that meets the*
5 *requirements of this paragraph is not required—*

6 “(i) *for services provided pursuant to a*
7 *tariff that has been approved or permitted*
8 *to take effect by the Commission or a State*
9 *commission; or*

10 “(ii) *for any purchase of goods or of*
11 *services that are not information services.*

12 “(E) *TERMINATION OF SERVICE.—On com-*
13 *plaint by any person, a carrier may terminate*
14 *the provision of service to an information pro-*
15 *vider unless the provider supplies evidence of a*
16 *written agreement that meets the requirements of*
17 *this section. The remedies provided in this para-*
18 *graph are in addition to any other remedies that*
19 *are available under title V of this Act.*

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

1 *cludes in response to each call an introductory disclo-*
2 *sure message that—*

3 *“(A) clearly states that there is a charge for*
4 *the call;*

5 *“(B) clearly states the service’s total cost*
6 *per minute and any other fees for the service or*
7 *for any service to which the caller may be trans-*
8 *ferred;*

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

11 *“(D) asks the caller for the credit or calling*
12 *card number;*

13 *“(E) clearly states that charges for the call*
14 *begin at the end of the introductory message; and*

15 *“(F) clearly states that the caller can hang*
16 *up at or before the end of the introductory mes-*
17 *sage without incurring any charge whatsoever.*

18 *“(10) DEFINITION OF CALLING CARD. —As used*
19 *in this subsection, the term ‘calling card’ means an*
20 *identifying number or code unique to the individual,*
21 *that is issued to the individual by a common carrier*
22 *and enables the individual to be charged by means of*
23 *a phone bill for charges incurred independent of*
24 *where the call originates.”.*

1 (b) *REGULATIONS.*—*The Federal Communications*
 2 *Commission shall revise its regulations to comply with the*
 3 *amendment made by subsection (a) of this section within*
 4 *180 days after the date of enactment of this Act.*

5 **SEC. 110. REPORT ON MEANS OF RESTRICTING ACCESS TO**
 6 **UNWANTED MATERIAL IN INTERACTIVE TELE-**
 7 **COMMUNICATIONS SYSTEMS.**

8 (a) *REPORT.*—*Not later than 150 days after the date*
 9 *of the enactment of this Act, the Attorney General shall sub-*
 10 *mit to the Committees on the Judiciary and Commerce,*
 11 *Science, and Transportation of the Senate and the Commit-*
 12 *tees on the Judiciary and Commerce of the House of Rep-*
 13 *resentatives a report containing—*

14 (1) *an evaluation of the enforceability with re-*
 15 *spect to interactive media of current criminal laws*
 16 *governing the distribution of obscenity over computer*
 17 *networks and the creation and distribution of child*
 18 *pornography by means of computers;*

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

22 (3) *an evaluation of the technical means avail-*
 23 *able—*

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

1 *interactive telecommunications systems so that*
2 *children may avoid violent, sexually explicit,*
3 *harassing, offensive, and other unwanted mate-*
4 *rial on such systems;*

5 *(B) to enable other users of such systems to*
6 *exercise control over the commercial and non-*
7 *commercial information that they receive by such*
8 *systems so that such users may avoid violent,*
9 *sexually explicit, harassing, offensive, and other*
10 *unwanted material on such systems; and*

11 *(C) to promote the free flow of information,*
12 *consistent with the values expressed in the Con-*
13 *stitution, in interactive media; and*

14 *(4) recommendations on means of encouraging*
15 *the development and deployment of technology, in-*
16 *cluding computer hardware and software, to enable*
17 *parents and other users of interactive telecommuni-*
18 *cations systems to exercise the control described in*
19 *subparagraphs (A) and (B) of paragraph (3).*

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

1 **SEC. 111. AUTHORIZATION OF APPROPRIATIONS.**

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

7 (b) *EFFECT ON FEES.*—*For the purposes of section*
 8 *9(b)(2) of the Act (47 U.S.C. 159(b)(2)), additional*
 9 *amounts appropriated pursuant to subsection (a) shall be*
 10 *construed to be changes in the amounts appropriated for*
 11 *the performance of activities described in section 9(a) of*
 12 *such Act.*

13 **TITLE II—CABLE COMMUNICA-**
 14 **TIONS COMPETITIVENESS**

15 **SEC. 201. CABLE SERVICE PROVIDED BY TELEPHONE COM-**
 16 **PANIES.**

17 (a) *GENERAL REQUIREMENT.*—

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

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

1 “(2) Subject to the requirements of part V and the
 2 other provisions of this title, any common carrier subject
 3 in whole or in part to title II of this Act may provide chan-
 4 nels of communications or pole, line, or conduit space, or
 5 other rental arrangements, to any entity which is directly
 6 or indirectly owned, operated, or controlled by, or under
 7 common control with, such common carrier, if such facili-
 8 ties or arrangements are to be used for, or in connection
 9 with, the provision of video programming directly to sub-
 10 sscribers in its telephone service area.

11 “(3)(A) Notwithstanding paragraphs (1) and (2), an
 12 affiliate described in subparagraph (B) shall not be subject
 13 to the requirements of part V, but—

14 “(i) if providing video programming as a cable
 15 service using a cable system, shall be subject to the re-
 16 quirements of this part and parts III and IV; and

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

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

22 “(i) is, consistently with section 655, owned, op-
 23 erated, or controlled by, or under common control
 24 with, a common carrier subject in whole or in part
 25 to title II of this Act;

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

3 “(iii) does not utilize the local exchange facilities
4 or services of any affiliated common carrier in dis-
5 tributing such programming.”.

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

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

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

13 “(18) the term ‘telephone service area’ when used
14 in connection with a common carrier subject in whole
15 or in part to title II of this Act means the area with-
16 in which such carrier provides telephone exchange
17 service as of January 1, 1993, but if any common
18 carrier after such date transfers its exchange service
19 facilities to another common carrier, the area to
20 which such facilities provide telephone exchange serv-
21 ice shall be treated as part of the telephone service
22 area of the acquiring common carrier and not of the
23 selling common carrier;”.

24 (b) PROVISIONS FOR REGULATION OF CABLE SERVICE
25 PROVIDED BY TELEPHONE COMPANIES.—Title VI of the

1 Act (47 U.S.C. 521 et seq.) is amended by adding at the
2 end the following new part:

3 ***“PART V—VIDEO PROGRAMMING SERVICES***
4 ***PROVIDED BY TELEPHONE COMPANIES***

5 ***“SEC. 651. DEFINITIONS.***

6 *“For purposes of this part—*

7 *“(1) the term ‘control’ means—*

8 *“(A) an ownership interest in which an en-*
9 *tity has the right to vote more than 50 percent*
10 *of the outstanding common stock or other owner-*
11 *ship interest; or*

12 *“(B) if no single entity directly or indi-*
13 *rectly has the right to vote more than 50 percent*
14 *of the outstanding common stock or other owner-*
15 *ship interest, actual working control, in whatever*
16 *manner exercised, as defined by the Commission*
17 *by regulation on the basis of relevant factors and*
18 *circumstances, which shall include partnership*
19 *and direct ownership interests, voting stock in-*
20 *terests, the interests of officers and directors, and*
21 *the aggregation of voting interests; and*

22 *“(2) the term ‘rural area’ means a geographic*
23 *area that does not include either—*

1 “(A) any incorporated or unincorporated
2 place of 10,000 inhabitants or more, or any part
3 thereof; or

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

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

8 “(a) *IN GENERAL.*—Except as provided in subsection
9 (d) of this section and section 613(b)(3), a common carrier
10 subject to title II of this Act shall not provide video pro-
11 gramming directly to subscribers in its telephone service
12 area unless such video programming is provided through
13 a video programming affiliate that is separate from such
14 carrier.

15 “(b) *BOOKS AND MARKETING.*—

16 “(1) *IN GENERAL.*—A video programming affli-
17 ate of a common carrier shall—

18 “(A) maintain books, records, and accounts
19 separate from such carrier which identify all
20 transactions with such carrier;

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

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

3 “(2) *INBOUND TELEMARKETING AND REFER-*
4 *RAL.—Notwithstanding paragraph (1)(B), a common*
5 *carrier may provide telemarketing or referral services*
6 *in response to the call of a customer or potential cus-*
7 *tomers related to the provision of video programming*
8 *by a video programming affiliate of such carrier. If*
9 *such services are provided to a video programming af-*
10 *ffiliate, such services shall be made available to any*
11 *video programmer or cable operator on request, on*
12 *nondiscriminatory terms, at just and reasonable*
13 *prices.*

14 “(3) *JOINT MARKETING.—Notwithstanding para-*
15 *graph (1)(B) or section 613(b)(3), a common carrier*
16 *may market video programming directly upon a*
17 *showing to the Commission that a cable operator or*
18 *other entity directly or indirectly provides tele-*
19 *communications services within the telephone service*
20 *area of the common carrier, and markets such tele-*
21 *communications services jointly with video program-*
22 *ming services. The common carrier shall specify the*
23 *geographic region covered by the showing. The Com-*
24 *mission shall approve or disapprove such showing*
25 *within 60 days after the date of its submission.*

1 “(c) *BUSINESS TRANSACTIONS WITH CARRIER.*—Any
2 contract, agreement, arrangement, or other manner of con-
3 ducting business, between a common carrier and its video
4 programming affiliate, providing for—

5 “(1) the sale, exchange, or leasing of property be-
6 tween such affiliate and such carrier,

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

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

11 shall be on a fully compensatory and auditable basis, shall
12 be without cost to the telephone service ratepayers of the
13 carrier, and shall be in compliance with regulations estab-
14 lished by the Commission that will enable the Commission
15 to assess the compliance of any transaction.

16 “(d) *WAIVER.*—

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

22 “(A) such waiver will not affect the ability
23 of the Commission to ensure that all video pro-
24 gramming activity is carried out without any
25 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.**—Except as provided in sec-
22 tion 613(b)(3), any common carrier subject to title II
23 of this Act, and that provides video programming di-
24 rectly to subscribers in its telephone service area, shall
25 establish a video platform. This paragraph shall not

1 *apply to any carrier to the extent that it provides*
2 *video programming directly to subscribers in its tele-*
3 *phone service area solely through a cable system ac-*
4 *quired in accordance with 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 of*
9 *its intention to establish channel capacity for the pro-*
10 *vision of video programming to meet the bona fide de-*
11 *mand 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 sub-*
16 *section (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 are*
25 *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 pursu-*
10 *ant 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 response*

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

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 existing
6 capacity of such video platform, immediately no-
7 tify the Commission of such expectation and of
8 the manner and date by which such carrier will
9 provide sufficient capacity to meet such excess
10 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 this
15 section and the regulations prescribed thereunder.
16 Any such dispute shall be resolved within 180 days
17 after notice of such dispute is submitted to the Com-
18 mission. At that time or subsequently in a separate
19 damages proceeding, the Commission may award
20 damages sustained in consequence of any violation of
21 this section to any person denied carriage, or require
22 carriage, or both. Any aggrieved party may seek any
23 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 Commission
3 shall complete all actions necessary (including any
4 reconsideration) to prescribe regulations that—

5 “(A) consistent with the requirements of sec-
6 tion 656, prohibit a common carrier from dis-
7 criminating among video programming provid-
8 ers with regard to carriage on its video platform,
9 and ensure that the rates, terms, and conditions
10 for such carriage are just, reasonable, and non-
11 discriminatory;

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 any
22 such video programming service;

23 “(D) extend to the distribution of video pro-
24 gramming over video platforms the Commission’s
25 regulations concerning network nonduplication

1 (47 C.F.R. 76.92 et seq.) and syndicated exclu-
2 sivity (47 C.F.R. 76.151 et seq.);

3 “(E) require the video platform to provide
4 service, transmission, and interconnection for
5 unaffiliated or independent video programming
6 providers that is equivalent to that provided to
7 the common carrier’s video programming affili-
8 ate, except that the video platform shall not dis-
9 criminate between analog and digital video pro-
10 gramming offered by such unaffiliated or inde-
11 pendent video programming providers;

12 “(F)(i) prohibit a common carrier from un-
13 reasonably discriminating in favor of its video
14 programming affiliate with regard to material
15 or information provided by the common carrier
16 to subscribers for the purposes of selecting pro-
17 gramming on the video platform, or in the way
18 such material or information is presented to sub-
19 scribers;

20 “(ii) require a common carrier to ensure
21 that video programming providers or copyright
22 holders (or both) are able suitably and uniquely
23 to identify their programming services to sub-
24 scribers; and

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

5 “(G) prohibit a common carrier from ex-
6 cluding areas from its video platform service
7 area on the basis of the ethnicity, race, or income
8 of the residents of that area, and provide for
9 public comments on the adequacy of the proposed
10 service area on the basis of the standards set
11 forth under this subparagraph.

12 Nothing in this section prohibits a common carrier or
13 its affiliate from negotiating mutually agreeable
14 terms and conditions with over-the-air broadcast sta-
15 tions and other unaffiliated video programming pro-
16 viders to allow consumer access to their signals on
17 any level or screen of any gateway, menu, or other
18 program guide, whether provided by the carrier or its
19 affiliate.

20 “(2) *APPLICABILITY TO OTHER HIGH CAPACITY*
21 *SYSTEMS.—The Commission shall apply the require-*
22 *ments of this section, in lieu of the requirements of*
23 *section 612, to any cable operator of a cable system*
24 *that has installed a switched, broadband video pro-*
25 *gramming delivery system, except that the Commis-*

1 *sion shall not apply the requirements of the regula-*
2 *tions prescribed pursuant to subsection (b)(1)(D) or*
3 *any other requirement that the Commission deter-*
4 *mines is inappropriate.*

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

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

16 **“SEC. 654. AUTHORITY TO PROHIBIT CROSS-SUBSIDIZA-**
17 **TION.**

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

22 *“(1) prescribing regulations to prohibit a com-*
23 *mon carrier from engaging in any practice that re-*
24 *sults in the inclusion in rates for telephone exchange*
25 *service or exchange access of any operating expenses,*

1 costs, depreciation charges, capital investments, or
2 other expenses directly associated with the provision
3 of competing video programming services by the com-
4 mon carrier or affiliate; or

5 “(2) ensuring such competing video program-
6 ming services bear a reasonable share of the joint and
7 common costs of facilities used to provide telephone
8 exchange service or exchange access and competing
9 video programming services.

10 ***SEC. 655. PROHIBITION ON BUY OUTS.**

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

17 “(b) **EXCEPTIONS.**—Notwithstanding subsection (a), a
18 common carrier may—

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

22 “(2) obtain, in addition to any interest, joint
23 venture, or partnership obtained or formed pursuant
24 to paragraph (1), a controlling interest in, or form a

1 joint venture or other partnership with, any cable
2 system or systems if—

3 “(A) such systems in the aggregate serve less
4 than 10 percent of the households in the tele-
5 phone service area of such carrier; and

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

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

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

1 “(A) the subject cable system operates in a
2 television market that is not in the top 25 mar-
3 kets, and that has more than 1 cable system op-
4 erator, and the subject cable system is not the
5 largest cable system in such television market;

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

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

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

20 “(c) WAIVER.—

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

24 “(A) because of the nature of the market
25 served by the cable system concerned—

1 “(i) the incumbent cable operator
2 would be subjected to undue economic dis-
3 tress by the enforcement of such subsection;
4 or

5 “(ii) the cable system would not be eco-
6 nomically viable if such subsection were en-
7 forced; and

8 “(B) the local franchising authority ap-
9 proves of such waiver.

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

13 “SEC. 654. APPLICABILITY OF PARTS I THROUGH IV.

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

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

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

23 “(3) parts III and IV (other than sections 628,
24 631, 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 com-
11 mercial and non-commercial broadcast television sta-
12 tions, and (D) an opportunity for commercial broad-
13 cast stations to choose between mandatory carriage
14 and reimbursement for retransmission of the signal of
15 such station. In prescribing such regulations, the
16 Commission shall, to the extent possible, impose obli-
17 gations that are no greater or lesser than the obli-
18 gations contained in the provisions described in sub-
19 section (a)(2) of this section.

20 “(2) **FEEES.**—A video programming affiliate of
21 any common carrier that establishes a video platform
22 under this part, and any multichannel video pro-
23 gramming distributor offering a competing service
24 using such video platform (as determined in accord-
25 ance with regulations of the Commission), shall be

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

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

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

12 **SEC. 302. COMPETITION FROM CABLE SYSTEMS.**

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

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

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

- 1 (c) *EQUIPMENT*.—Section 623(a) of the Act (47 U.S.C.
- 2 543(a)) is amended—
- 3 (1) in paragraph (6)—
- 4 (A) by striking “paragraph (4)” and insert-
- 5 ing “paragraph (5)”;
- 6 (B) by striking “paragraph (5)” and insert-
- 7 ing “paragraph (6)”;
- 8 (C) by striking “paragraph (3)” and insert-
- 9 ing “paragraph (4)”;
- 10 (2) by redesignating paragraphs (3) through (6)
- 11 as paragraphs (4) through (7), respectively; and
- 12 (3) by inserting after paragraph (2) the follow-
- 13 ing new paragraph:
- 14 “(3) *EQUIPMENT*.—If the Commission finds that
- 15 a cable system is subject to effective competition under
- 16 subparagraph (D) of subsection (l)(1), the rates for
- 17 equipment, installations, and connections for addi-
- 18 tional television receivers (other than equipment, in-
- 19 stallations, and connections furnished by such system
- 20 to subscribers who receive only a rate regulated basic
- 21 service tier) shall not be subject to regulation by the
- 22 Commission or by a State or franchising authority.
- 23 If the Commission finds that a cable system is subject
- 24 to effective competition under subparagraph (A), (B),
- 25 or (C) of subsection (l)(1), the rates for any equip-

1 *ment, installations, and connections furnished by*
2 *such system to any subscriber shall not be subject to*
3 *regulation by the Commission, or by a State or fran-*
4 *chising authority. No Federal agency, State, or fran-*
5 *chising authority may establish the price or rate for*
6 *the installation, sale, or lease of any equipment fur-*
7 *nished to any subscriber by a cable system solely in*
8 *connection with video programming offered on a per*
9 *channel or per program basis.”*

10 *(d) LIMITATION ON BASIC TIER RATE INCREASES;*
11 *SCOPE OF REVIEW.—Section 623(a) of the Act (47 U.S.C.*
12 *543(a)) is further amended by adding at the end the follow-*
13 *ing new paragraph:*

14 *“(8) LIMITATION ON BASIC TIER RATE IN-*
15 *CREASES; SCOPE OF REVIEW.—A cable operator may*
16 *not increase its basic service tier rate more than once*
17 *every 6 months. Such increase may be implemented,*
18 *using any reasonable billing or proration method, 30*
19 *days after providing notice to subscribers and the ap-*
20 *propriate regulatory authority. The rate resulting*
21 *from such increase shall be deemed reasonable and*
22 *shall not be subject to reduction or refund if the fran-*
23 *chising authority or the Commission, as appropriate,*
24 *does not complete its review and issue a final order*
25 *within 90 days after implementation of such increase.*

1 *The review by the franchising authority or the Com-*
 2 *mission of any future increase in such rate shall be*
 3 *limited to the incremental change in such rate effected*
 4 *by such increase.”.*

5 *(e) NATIONAL INFORMATION INFRASTRUCTURE DE-*
 6 *VELOPMENT.—Section 623(a) of the Act (47 U.S.C. 543) is*
 7 *further amended by adding at the end the following new*
 8 *paragraph:*

9 “(9) NATIONAL INFORMATION INFRASTRUC-

10 *TURE.—*
 11 “(A) PURPOSE.—*It is the purpose of this*
 12 *paragraph to—*

13 “(i) *promote the development of the*
 14 *National Information Infrastructure;*

15 “(ii) *enhance the competitiveness of the*
 16 *National Information Infrastructure by en-*
 17 *sureing that cable operators have incentives*
 18 *comparable to other industries to develop*
 19 *such infrastructure; and*

20 “(iii) *encourage the rapid deployment*
 21 *of digital technology necessary to the devel-*
 22 *opment of the National Information Infra-*
 23 *structure.*

24 “(B) AGGREGATION OF EQUIPMENT
 25 *COSTS.—The Commission shall allow cable oper-*

1 ators, pursuant to any rules promulgated under
 2 subsection (b)(3), to aggregate, on a franchise,
 3 system, regional, or company level, their equip-
 4 ment costs into broad categories, such as con-
 5 verter boxes, regardless of the varying levels of
 6 functionality of the equipment within each such
 7 broad category. Such aggregation shall not be
 8 permitted with respect to equipment used by sub-
 9 scribers who receive only a rate regulated basic
 10 service tier.

11 “(C) *REVISION TO COMMISSION RULES;*
 12 *FORMS.*—Within 120 days of the date of enact-
 13 ment of this paragraph, the Commission shall
 14 issue revisions to the appropriate rules and
 15 forms necessary to implement subparagraph
 16 (B).”.

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

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

22 “(3) *REVIEW OF COMPLAINTS.*—

23 “(A) *COMPLAINT THRESHOLD.*—The Com-
 24 mission shall have the authority to review any
 25 increase in the rates for cable programming serv-

1 ices implemented after the date of enactment of
2 the Communications Act of 1995 only if, within
3 90 days after such increase becomes effective, at
4 least 10 subscribers to such services or 5 percent
5 of the subscribers to such services, whichever is
6 greater, file separate, individual complaints
7 against such increase with the Commission in
8 accordance with the requirements established
9 under paragraph (1)(B).

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

15 “(4) TREATMENT OF PENDING CABLE PROGRAM-
16 MING SERVICES COMPLAINTS.—Upon enactment of the
17 Communications Act of 1995, the Commission shall
18 suspend the processing of all pending cable program-
19 ming services rate complaints. These pending com-
20 plaints shall be counted by the Commission toward
21 the complaint threshold specified in paragraph
22 (3)(A). Parties shall have an additional 90 days from
23 the date of enactment of such Act to file complaints
24 about prior increases in cable programming services
25 rates if such rate increases were already subject to a

1 *valid, pending complaint on such date of enactment.*
2 *At the expiration of such 90-day period, the Commis-*
3 *sion shall dismiss all pending cable programming*
4 *services rate cases for which the complaint threshold*
5 *has not been met, and may resume its review of those*
6 *pending cable programming services rate cases for*
7 *which the complaint threshold has been met, which*
8 *review shall be completed within 180 days after the*
9 *date of enactment of the Communications Act of 1995.*

10 “(5) *SCOPE OF COMMISSION REVIEW.—A cable*
11 *programming services rate shall be deemed not unrea-*
12 *sonable and shall not be subject to reduction or refund*
13 *if—*

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

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

20 “(C) *such rate resulted from an increase for*
21 *which the complaint threshold specified in para-*
22 *graph (3)(A) has not been met;*

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

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

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

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

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

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

16 “(d) *UNIFORM RATE STRUCTURE*.—A cable operator
17 shall have a uniform rate structure throughout its franchise
18 area for the provision of cable services that are regulated
19 by the Commission or the franchising authority. Bulk dis-
20 counts to multiple dwelling units shall not be subject to this
21 requirement.”.

22 (h) *EFFECTIVE COMPETITION*.—Section 623(l)(1) of
23 the Act (47 U.S.C. 543(l)(1)) 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 subpara-
5 graph (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 fa-
15 cilities to provide video dialtone service in
16 the 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 area;
21 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 SMALL CABLE OPERATORS.*—Section
4 623 of the Act (47 U.S.C. 543) is amended by adding at
5 the end the following new subsection:

6 “(m) *SMALL CABLE OPERATORS.*—

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

13 “(2) *DEFINITION OF SMALL CABLE OPERATOR.*—
14 For purposes of this subsection, ‘small cable operator’
15 means a cable operator that—

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

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

22 (j) *TECHNICAL STANDARDS.*—Section 624(e) of the Act
23 (47 U.S.C. 544(e)) is amended by striking the last two sen-
24 tences and inserting the following: “No State or franchising
25 authority may prohibit, condition, or restrict a cable sys-

1 *tem's use of any type of subscriber equipment or any trans-*
2 *mission technology."*

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

6 “(2) *CABLE SECURITY SYSTEMS.—No Federal*
7 *agency, State, or franchising authority may prohibit*
8 *a cable operator's use of any security system (includ-*
9 *ing scrambling, encryption, traps, and interdiction),*
10 *except that the Commission may prohibit the use of*
11 *any such system solely with respect to the delivery of*
12 *a basic service tier that, as of January 1, 1995, con-*
13 *tained only the signals and programming specified in*
14 *section 623(b)(7)(A), unless the use of such system is*
15 *necessary to prevent the unauthorized reception of*
16 *such tier.”*

17 (l) *CABLE EQUIPMENT COMPATIBILITY.—Section*
18 *624A of the Act (47 U.S.C. 544A), is amended—*

19 (1) *in subsection (a) by striking “and” at the*
20 *end of paragraph (2), by striking the period at the*
21 *end of paragraph (3) and inserting “; and”; and by*
22 *adding at the end the following new paragraph:*

23 “(4) *compatibility among televisions, video cas-*
24 *sette recorders, and cable systems can be assured with*
25 *narrow technical standards that mandate a minimum*

1 *degree of common design and operation, leaving all*
2 *features, functions, protocols, and other product and*
3 *service options for selection through open competition*
4 *in the market.”;*

5 *(2) in subsection (c)(1)—*

6 *(A) by redesignating subparagraphs (A)*
7 *and (B) as subparagraphs (B) and (C), respec-*
8 *tively; and*

9 *(B) by inserting before such redesignated*
10 *subparagraph (B) the following new subpara-*
11 *graph:*

12 *“(A) the need to maximize open competition*
13 *in the market for all features, functions, proto-*
14 *cols, and other product and service options of*
15 *converter boxes and other cable converters unre-*
16 *lated to the descrambling or decryption of cable*
17 *television signals;”;* and

18 *(3) in subsection (c)(2)—*

19 *(A) by redesignating subparagraphs (D)*
20 *and (E) as subparagraphs (E) and (F), respec-*
21 *tively; and*

22 *(B) by inserting after subparagraph (C) the*
23 *following new subparagraph:*

24 *“(D) to ensure that any standards or regu-*
25 *lations developed under the authority of this sec-*

1 tion to ensure compatibility between televisions,
2 video cassette recorders, and cable systems do not
3 affect features, functions, protocols, and other
4 product and service options other than those
5 specified in paragraph (1)(B), including tele-
6 communications interface equipment, home auto-
7 mation communications, and computer network
8 services;”.

9 (m) *RETIERING OF BASIC TIER SERVICES.*—Section
10 625(d) of the Act (47 U.S.C. 543(d)) is amended by adding
11 at the end the following new sentence: “Any signals or serv-
12 ices carried on the basic service tier but not required under
13 section 623(̄)(7)(A) may be moved from the basic service
14 tier at the operator’s sole discretion, provided that the re-
15 moval of such a signal or service from the basic service tier
16 is permitted by contract. The movement of such signals or
17 services to an unregulated package of services shall not sub-
18 ject such package to regulation.”.

19 (n) *SUBSCRIBER NOTICE.*—Section 632 of the Act (47
20 U.S.C. 552) is amended—

21 (1) by redesignating subsection (c) as subsection
22 (d); and

23 (2) by inserting after subsection (b) the following
24 new subsection:

1 “(c) *SUBSCRIBER NOTICE.*—A cable operator may pro-
 2 vide notice of service and rate changes to subscribers using
 3 any reasonable written means at its sole discretion. Not-
 4 withstanding section 623(b)(6) or any other provision of
 5 this Act, a cable operator shall not be required to provide
 6 prior notice of any rate change that is the result of a regu-
 7 latory fee, franchise fee, or any other fee, tax, assessment,
 8 or charge of any kind imposed by any Federal agency,
 9 State, or franchising authority on the transaction between
 10 the operator and the subscriber.”.

11 (o) *TREATMENT OF PRIOR YEAR LOSSES.*—

12 (1) *AMENDMENT.*—Section 623 (48 U.S.C. 543)
 13 is amended by adding at the end thereof the following:

14 “(n) *TREATMENT OF PRIOR YEAR LOSSES.*—Notwith-
 15 standing any other provision of this section or of section
 16 612, losses (including losses associated with the acquisitions
 17 of such franchise) that were incurred prior to September
 18 4, 1992, with respect to a cable system that is owned and
 19 operated by the original franchisee of such system shall not
 20 be disallowed, in whole or in part, in the determination
 21 of whether the rates for any tier of service or any type of
 22 equipment that is subject to regulation under this section
 23 are lawful.”.

24 (2) *EFFECTIVE DATE.*—The amendment made by
 25 paragraph (1) shall take effect on the date of enact-

1 *ment of this Act and shall be applicable to any rate*
2 *proposal filed on or after September 4, 1993.*

3 **SEC. 203. COMPETITIVE AVAILABILITY OF NAVIGATION DE-**
4 **VICES.**

5 *Title VII of the Act is amended by adding at the end*
6 *the following new section:*

7 **"SEC. 713. COMPETITIVE AVAILABILITY OF NAVIGATION DE-**
8 **VICES.**

9 *"(a) DEFINITIONS.—As used in this section:*

10 *"(1) The term 'telecommunications subscription*
11 *service' means the provision directly to subscribers of*
12 *video, voice, or data services for which a subscriber*
13 *charge is made.*

14 *"(2) The term 'telecommunications system' or a*
15 *'telecommunications system operator' means a pro-*
16 *vider of telecommunications subscription service.*

17 *"(b) COMPETITIVE CONSUMER AVAILABILITY OF CUS-*
18 *TOMER PREMISES EQUIPMENT.—The Commission shall*
19 *adopt regulations to assure competitive availability, to con-*
20 *sumers of telecommunications subscription services, of con-*
21 *verter boxes, interactive communications devices, and other*
22 *customer premises equipment from manufacturers, retail-*
23 *ers, and other vendors not affiliated with any telecommuni-*
24 *cations system operator. Such regulations shall take into*
25 *account the needs of owners and distributors of video pro-*

1 *gramming and information services to ensure system and*
2 *signal security and prevent theft of service. Such regula-*
3 *tions shall not prohibit any telecommunications system op-*
4 *erator from also offering devices and customer premises*
5 *equipment to consumers, provided that the system opera-*
6 *tor's charges to consumers for such devices and equipment*
7 *are separately stated and not bundled with or subsidized*
8 *by charges for any telecommunications subscription service.*

9 “(c) *WAIVER FOR NEW NETWORK SERVICES.*—*The*
10 *Commission may waive a regulation adopted pursuant to*
11 *subsection (b) for a limited time upon an appropriate show-*
12 *ing by a telecommunications system operator that such*
13 *waiver is necessary to the introduction of a new tele-*
14 *communications subscription service.*

15 “(d) *SUNSET.*—*The regulations adopted pursuant to*
16 *this section shall cease to apply to any market for the acqui-*
17 *sition of converter boxes, interactive communications de-*
18 *vices, or other customer premises equipment when the Com-*
19 *mission determines that such market is competitive.”.*

20 **SEC. 204. VIDEO PROGRAMMING ACCESSIBILITY.**

21 “(a) *COMMISSION INQUIRY.*—*Within 180 days after the*
22 *date of enactment of this section, the Federal Communica-*
23 *tions Commission shall complete an inquiry to ascertain*
24 *the level at which video programming is closed captioned.*
25 *Such inquiry shall examine the extent to which existing or*

1 *previously published programming is closed captioned, the*
2 *size of the video programming provider or programming*
3 *owner providing closed captioning, the size of the market*
4 *served, the relative audience shares achieved, or any other*
5 *related factors. The Commission shall submit to the Con-*
6 *gress a report on the results of such inquiry.*

7 (b) *ACCOUNTABILITY CRITERIA.—Within 18 months*
8 *after the date of enactment, the Commission shall prescribe*
9 *such regulations as are necessary to implement this section.*
10 *Such regulations shall ensure that—*

11 (1) *video programming first published or exhib-*
12 *ited after the effective date of such regulations is fully*
13 *accessible through the provision of closed captions, ex-*
14 *cept as provided in subsection (d); and*

15 (2) *video programming providers or owners*
16 *maximize the accessibility of video programming first*
17 *published or exhibited prior to the effective date of*
18 *such regulations through the provision of closed cap-*
19 *tions, except as provided in subsection (d).*

20 (c) *DEADLINES FOR CAPTIONING.—Such regulations*
21 *shall include an appropriate schedule of deadlines for the*
22 *provision of closed captioning of video programming.*

23 (d) *EXEMPTIONS.—Notwithstanding subsection (b)—*

24 (1) *the Commission may exempt by regulation*
25 *programs, classes of programs, or services for which*

1 *the Commission has determined that the provision of*
2 *closed captioning would be economically burdensome*
3 *to the provider or owner of such programming;*

4 (2) *a provider of video programming or the*
5 *owner of any program carried by the provider shall*
6 *not be obligated to supply closed captions if such ac-*
7 *tion would be inconsistent with contracts in effect on*
8 *the date of enactment of this Act, except that nothing*
9 *in this section shall be construed to relieve a video*
10 *programming provider of its obligations to provide*
11 *services required by Federal law; and*

12 (3) *a provider of video programming or program*
13 *owner may petition the Commission for an exemption*
14 *from the requirements of this section, and the Com-*
15 *mission may grant such petition upon a showing that*
16 *the requirements contained in this section would re-*
17 *sult in an undue burden.*

18 (e) *UNDUE BURDEN.*—*The term “undue burden”*
19 *means significant difficulty or expense. In determining*
20 *whether the closed captions necessary to comply with the*
21 *requirements of this paragraph would result in an undue*
22 *economic burden, the factors to be considered include—*

23 (1) *the nature and cost of the closed captions for*
24 *the programming;*

1 (2) *the impact on the operation of the provider*
2 *or program owner;*

3 (3) *the financial resources of the provider or pro-*
4 *gram owner; and*

5 (4) *the type of operations of the provider or pro-*
6 *gram owner.*

7 (f) *VIDEO DESCRIPTIONS INQUIRY.—Within 6 months*
8 *after the date of enactment of this Act, the Commission shall*
9 *commence an inquiry to examine the use of video descrip-*
10 *tions on video programming in order to ensure the acces-*
11 *sibility of video programming to persons with visual im-*
12 *pairments, and report to Congress on its findings. The*
13 *Commission's report shall assess appropriate methods and*
14 *schedules for phasing video descriptions into the market-*
15 *place, technical and quality standards for video descrip-*
16 *tions, a definition of programming for which video descrip-*
17 *tions would apply, and other technical and legal issues that*
18 *the Commission deems appropriate. Following the comple-*
19 *tion of such inquiry, the Commission may adopt regulation*
20 *it deems necessary to promote the accessibility of video pro-*
21 *gramming to persons with visual impairments.*

22 (g) *VIDEO DESCRIPTION.—For purposes of this sec-*
23 *tion, "video description" means the insertion of audio nar-*
24 *rated descriptions of a television program's key visual ele-*
25 *ments into natural pauses between the program's dialogue.*

1 *(h) PRIVATE RIGHTS OF ACTIONS PROHIBITED.—*

2 *Nothing in this section shall be construed to authorize any*
 3 *private right of action to enforce any requirement of this*
 4 *section or any regulation thereunder. The Commission shall*
 5 *have exclusive jurisdiction with respect to any complaint*
 6 *under this section.*

7 **SEC. 305. TECHNICAL AMENDMENTS.**

8 *(a) RETRANSMISSION.—Section 325(b)(2)(D) of the*
 9 *Act (47 U.S.C. 325(b)(2)(D)) is amended to read as follows:*

10 *“(D) retransmission by a cable operator or other*
 11 *multichannel video programming distributor of the*
 12 *signal of a superstation if (i) the customers served by*
 13 *the cable operator or other multichannel video pro-*
 14 *gramming distributor reside outside the originating*
 15 *station’s television market, as defined by the Commis-*
 16 *sion for purposes of section 614(h)(1)(C); (ii) such*
 17 *signal was obtained from a satellite carrier or terres-*
 18 *trial microwave common carrier; and (iii) and the*
 19 *origination station was a superstation on May 1,*
 20 *1991.”.*

21 *(b) MARKET DETERMINATIONS.—Section*
 22 *614(h)(1)(C)(i) of the Act (47 U.S.C. 534(h)(1)(C)(i)) is*
 23 *amended by striking out “in the manner provided in section*
 24 *73.3555(d)(3)(i) of title 47, Code of Federal Regulations,*
 25 *as in effect on May 1, 1991,” and inserting “by the Com-*

1 mission by regulation or order using, where available, com-
 2 mercial publications which delineate television markets
 3 based on viewing patterns.”.

4 (c) *TIME FOR DECISION.*—Section 614(h)(1)(C)(iv) of
 5 such Act is amended to read as follows:

6 “(iv) Within 120 days after the date a re-
 7 quest is filed under this subparagraph, the Com-
 8 mission shall grant or deny the request.”.

9 (d) *PROCESSING OF PENDING COMPLAINTS.*—The
 10 Commission shall, unless otherwise informed by the person
 11 making the request, assume that any person making a re-
 12 quest to include or exclude additional communities under
 13 section 614(h)(1)(C) of such Act (as in effect prior to the
 14 date of enactment of this Act) continues to request such in-
 15 clusion or exclusion under such section as amended under
 16 subsection (b).

17 **TITLE III—BROADCAST COMMU-**
 18 **NICATIONS COMPETITIVE-**
 19 **NESS**

20 **SEC. 301. BROADCASTER SPECTRUM FLEXIBILITY.**

21 Title III of the Act is amended by inserting after sec-
 22 tion 335 (47 U.S.C. 335) the following new section:

1 **"SEC. 336. BROADCAST SPECTRUM FLEXIBILITY.**

2 “(a) *COMMISSION ACTION.*—If the Commission deter-
3 mines to issue additional licenses for advanced television
4 services, the Commission shall—

5 “(1) *limit the initial eligibility for such licenses*
6 *to persons that, as of the date of such issuance, are*
7 *licensed to operate a television broadcast station or*
8 *hold a permit to construct such a station (or both);*
9 *and*

10 “(2) *adopt regulations that allow such licensees*
11 *or permittees to offer such ancillary or supplementary*
12 *services on designated frequencies as may be consist-*
13 *ent with the public interest, convenience, and neces-*
14 *sity.*

15 “(b) *CONTENTS OF REGULATIONS.*—In prescribing the
16 regulations required by subsection (a), the Commission
17 shall—

18 “(1) *only permit such licensee or permittee to*
19 *offer ancillary or supplementary services if the use of*
20 *a designated frequency for such services is consistent*
21 *with the technology or method designated by the Com-*
22 *mission for the provision of advanced television serv-*
23 *ices;*

24 “(2) *limit the broadcasting of ancillary or sup-*
25 *plementary services on designated frequencies so as to*
26 *avoid derogation of any advanced television services,*

1 including high definition television broadcasts, that
2 the Commission may require using such frequencies;

3 “(3) apply to any other ancillary or supple-
4 mentary service such of the Commission’s regulations
5 as are applicable to the offering of analogous services
6 by any other person, except that no ancillary or sup-
7 plementary service shall have any rights to carriage
8 under section 614 or 615 or be deemed a multichannel
9 video programming distributor for purposes of section
10 628;

11 “(4) adopt such technical and other requirements
12 as may be necessary or appropriate to assure the
13 quality of the signal used to provide advanced tele-
14 vision services, and may adopt regulations that stipu-
15 late the minimum number of hours per day that such
16 signal must be transmitted; and

17 “(5) prescribe such other regulations as may be
18 necessary for the protection of the public interest, con-
19 venience, and necessity.

20 “(c) RECOVERY OF LICENSE.—

21 “(1) CONDITIONS REQUIRED.—If the Commis-
22 sion grants a license for advanced television services
23 to a person that, as of the date of such issuance, is
24 licensed to operate a television broadcast station or
25 holds a permit to construct such a station (or both),

1 *the Commission shall, as a condition of such license,*
2 *require that, upon a determination by the Commis-*
3 *sion pursuant to the regulations prescribed under*
4 *paragraph (2), either the additional license or the*
5 *original license held by the licensee be surrendered to*
6 *the Commission in accordance with such regulations*
7 *for reallocation or reassignment (or both) pursuant*
8 *to Commission regulation.*

9 “(2) *CRITERIA.—The Commission shall prescribe*
10 *criteria for rendering determinations concerning li-*
11 *cence surrender pursuant to license conditions re-*
12 *quired by paragraph (1). Such criteria shall—*

13 “(A) *require such determinations to be*
14 *based, on a market-by-market basis, on whether*
15 *the substantial majority of the public have ob-*
16 *tained television receivers that are capable of re-*
17 *ceiving advanced television services; and*

18 “(B) *not require the cessation of the broad-*
19 *casting under either the original or additional*
20 *license if such cessation would render the tele-*
21 *vision receivers of a substantial portion of the*
22 *public useless, or otherwise cause undue burdens*
23 *on the owners of such television receivers.*

24 “(3) *AUCTION OF RETURNED SPECTRUM.—Any*
25 *license surrendered under the requirements of this*

1 subsection shall be subject to assignment by use of
2 competitive bidding pursuant to section 309(j), not-
3 withstanding any limitations contained in paragraph
4 (2) of such section.

5 “(d) FEES.—

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

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

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

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

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

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

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

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

17 “(3) TREATMENT OF REVENUES.—

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

24 “(B) RETENTION OF REVENUES.—Notwith-
25 standing subparagraph (A), the salaries and ex-

1 *penses account of the Commission shall retain as*
2 *an offsetting collection such sums as may be nec-*
3 *essary from such proceeds for the costs of devel-*
4 *oping and implementing the program required*
5 *by this section and regulating and supervising*
6 *advanced television services. Such offsetting col-*
7 *lections shall be available for obligation subject*
8 *to the terms and conditions of the receiving ap-*
9 *propriations account, and shall be deposited in*
10 *such accounts on a quarterly basis.*

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

17 “(e) *EVALUATION.*—*Within 10 years after the date the*
18 *Commission first issues additional licenses for advanced tel-*
19 *evision services, the Commission shall conduct an evalua-*
20 *tion of the advanced television services program. Such eval-*
21 *uation shall include—*

22 “(1) *an assessment of the willingness of consum-*
23 *ers to purchase the television receivers necessary to re-*
24 *ceive broadcasts of advanced television services;*

1 “(2) an assessment of alternative uses, including
2 public safety use, of the frequencies used for such
3 broadcasts; and

4 “(3) the extent to which the Commission has been
5 or will be able to reduce the amount of spectrum as-
6 signed to licensees.

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

8 “(1) *ADVANCED TELEVISION SERVICES.*—The
9 term ‘advanced television services’ means television
10 services provided using digital or other advanced tech-
11 nology as further defined in the opinion, report, and
12 order of the Commission entitled ‘Advanced Television
13 Systems and Their Impact Upon the Existing Tele-
14 vision Broadcast Service’, MM Docket 87-268, adopt-
15 ed September 17, 1992, and successor proceedings.

16 “(2) *DESIGNATED FREQUENCIES.*—The term
17 ‘designated frequency’ means each of the frequencies
18 designated by the Commission for licenses for ad-
19 vanced television services.

20 “(3) *HIGH DEFINITION TELEVISION.*—The term
21 ‘high definition television’ refers to systems that offer
22 approximately twice the vertical and horizontal reso-
23 lution of receivers generally available on the date of
24 enactment of this section, as further defined in the

1 *proceedings described in paragraph (1) of this sub-*
2 *section.”.*

3 **SEC. 302. BROADCAST OWNERSHIP.**

4 (a) *AMENDMENT.—Title III of the Act is amended by*
5 *inserting after section 336 (as added by section 301) the*
6 *following new section:*

7 **“SEC. 337. BROADCAST OWNERSHIP.**

8 *“(a) LIMITATIONS ON COMMISSION RULEMAKING AU-*
9 *THORITY.—Except as expressly permitted in this section,*
10 *the Commission shall not prescribe or enforce any regula-*
11 *tion—*

12 *“(1) prohibiting or limiting, either nationally or*
13 *within any particular area, a person or entity from*
14 *holding any form of ownership or other interest in*
15 *two or more broadcasting stations or in a broadcast-*
16 *ing station and any other medium of mass commu-*
17 *nication; or*

18 *“(2) prohibiting a person or entity from owning,*
19 *operating, or controlling two or more networks of*
20 *broadcasting stations or from owning, operating, or*
21 *controlling a network of broadcasting stations and*
22 *any other medium of mass communications.*

23 **“(b) TELEVISION OWNERSHIP LIMITATIONS.—**

24 *“(1) NATIONAL AUDIENCE REACH LIMITA-*
25 *TIONS.—The Commission shall prohibit a person or*

1 entity from obtaining any license if such license
2 would result in such person or entity directly or indi-
3 rectly owning, operating, or controlling, or having a
4 cognizable interest in, television stations which have
5 an aggregate national audience reach exceeding--

6 “(A) 35 percent, for any determination
7 made under this paragraph before one year after
8 the date of enactment of this section; or

9 “(B) 50 percent, for any determination
10 made under this paragraph on or after one year
11 after such date of enactment.

12 Within 3 years after such date of enactment, the Com-
13 mission shall conduct a study on the operation of this
14 paragraph and submit a report to the Congress on the
15 development of competition in the television market-
16 place and the need for any revisions to or elimination
17 of this paragraph.

18 “(2) MULTIPLE LICENSES IN A MARKET.—

19 “(A) IN GENERAL.—The Commission shall
20 prohibit a person or entity from obtaining any
21 license if such license would result in such person
22 or entity directly or indirectly owning, operat-
23 ing, or controlling, or having a cognizable inter-
24 est in, two or more television stations within the
25 same television market.

1 “(B) *EXCEPTION FOR MULTIPLE UHF STA-*
2 *TIONS AND FOR UHF-VHF COMBINATIONS.*—Not-
3 *withstanding subparagraph (A), the Commission*
4 *shall not prohibit a person or entity from di-*
5 *rectly or indirectly owning, operating, or con-*
6 *trolling, or having a cognizable interest in, two*
7 *television stations within the same television*
8 *market if at least one of such stations is a UHF*
9 *television, unless the Commission determines that*
10 *permitting such ownership, operation, or control*
11 *will harm competition or will harm the preser-*
12 *vation of a diversity of media voices in the local*
13 *television market.*

14 “(C) *EXCEPTION FOR VHF-VHF COMBINA-*
15 *TIONS.*—Notwithstanding subparagraph (A), the
16 *Commission may permit a person or entity to*
17 *directly or indirectly own, operate, or control, or*
18 *have a cognizable interest in, two VHF television*
19 *stations within the same television market, if the*
20 *Commission determines that permitting such*
21 *ownership, operation, or control will not harm*
22 *competition and will not harm the preservation*
23 *of a diversity of media voices in the local tele-*
24 *vision market.*

1 “(c) *LOCAL CROSS-MEDIA OWNERSHIP LIMITS.*—In a
2 *proceeding to grant, renew, or authorize the assignment of*
3 *any station license under this title, the Commission may*
4 *deny the application if the Commission determines that the*
5 *combination of such station and more than one other*
6 *nonbroadcast media of mass communication would result*
7 *in an undue concentration of media voices in the respective*
8 *local market. In considering any such combination, the*
9 *Commission shall not grant the application if all the media*
10 *of mass communication in such local market would be*
11 *owned, operated, or controlled by two or fewer persons or*
12 *entities. This subsection shall not constitute authority for*
13 *the Commission to prescribe regulations containing local*
14 *cross-media ownership limitations. The Commission may*
15 *not, under the authority of this subsection, require any per-*
16 *son or entity to divest itself of any portion of any combina-*
17 *tion of stations and other media of mass communications*
18 *that such person or entity owns, operates, or controls on*
19 *the date of enactment of this section unless such person or*
20 *entity acquires another station or other media of mass com-*
21 *munications after such date in such local market.*

22 “(d) *TRANSITION PROVISIONS.*—Any provision of any
23 *regulation prescribed before the date of enactment of this*
24 *section that is inconsistent with the requirements of this*
25 *section shall cease to be effective on such date of enactment.*

1 *The Commission shall complete all actions (including any*
2 *reconsideration) necessary to amend its regulations to con-*
3 *form to the requirements of this section not later than 6*
4 *months after such date of enactment. Nothing in this section*
5 *shall be construed to prohibit the continuation or renewal*
6 *of any television local marketing agreement that is in effect*
7 *on such date of enactment and that is in compliance with*
8 *Commission regulations on such date.”.*

9 **(b) CONFORMING AMENDMENT.**—*Section 613(a) of the*
10 *Act (47 U.S.C. 533(a)) is repealed.*

11 **SEC. 303. FOREIGN INVESTMENT AND OWNERSHIP.**

12 **(a) STATION LICENSES.**—*Section 310(a) (47 U.S.C.*
13 *310(a)) is amended to read as follows:*

14 **“(a) GRANT TO OR HOLDING BY FOREIGN GOVERN-**
15 **MENT OR REPRESENTATIVE.**—*No station license required*
16 *under title III of this Act shall be granted to or held by*
17 *any foreign government or any representative thereof. This*
18 *subsection shall not apply to licenses issued under such*
19 *terms and conditions as the Commission may prescribe to*
20 *mobile earth stations engaged in occasional or short-term*
21 *transmissions via satellite of audio or television program*
22 *material and auxiliary signals if such transmissions are*
23 *not intended for direct reception by the general public in*
24 *the United States.”.*

1 **(b) TERMINATION OF FOREIGN OWNERSHIP RESTRICTIONS.**—Section 310 (47 U.S.C. 310) is amended by adding
2 at the end thereof the following new subsection:

3 **“(f) TERMINATION OF FOREIGN OWNERSHIP RESTRICTIONS.**—

4 **“(1) RESTRICTION NOT TO APPLY.**—Subsection
5 **(b) shall not apply to any common carrier license**
6 **granted, or for which application is made, after the**
7 **date of enactment of this subsection with respect to**
8 **any alien (or representative thereof), corporation, or**
9 **foreign government (or representative thereof) if—**

10 **“(A) the President determines that the for-**
11 **ign country of which such alien is a citizen, in**
12 **which such corporation is organized, or in which**
13 **the foreign government is in control is party to**
14 **an international agreement which requires the**
15 **United States to provide national or most-fa-**
16 **voored-nation treatment in the grant of common**
17 **carrier licenses; or**

18 **“(B) the Commission determines that not**
19 **applying subsection (b) would serve the public**
20 **interest.**

21 **“(2) COMMISSION CONSIDERATIONS.**—In making
22 its determination, under paragraph (1)(B), the Com-
23 mission may consider, among other public interest
24
25

1 *factors, whether effective competitive opportunities are*
2 *available to United States nationals or corporations*
3 *in the applicant's home market. In evaluating the*
4 *public interest, the Commission shall exercise great*
5 *deference to the President with respect to United*
6 *States national security, law enforcement require-*
7 *ments, foreign policy, the interpretation of inter-*
8 *national agreements, and trade policy (as well as di-*
9 *rect investment as it relates to international trade*
10 *policy). Upon receipt of an application that requires*
11 *a finding under this paragraph, the Commission shall*
12 *cause notice thereof to be given to the President or*
13 *any agencies designated by the President to receive*
14 *such notification.*

15 *“(3) FURTHER COMMISSION REVIEW.—Except as*
16 *otherwise provided in this paragraph, the Commis-*
17 *sion may determine that any foreign country with re-*
18 *spect to which it has made a determination under*
19 *paragraph (1) has ceased to meet the requirements for*
20 *that determination. In making this determination,*
21 *the Commission shall exercise great deference to the*
22 *President with respect to United States national secu-*
23 *rity, law enforcement requirements, foreign policy, the*
24 *interpretation of international agreements, and trade*
25 *policy (as well as direct investment as it relates to*

1 *international trade policy). If a determination under*
2 *this paragraph is made then—*

3 “(A) *subsection (b) shall apply with respect*
4 *to such aliens, corporation, and government (or*
5 *their representatives) on the date that the Com-*
6 *mission publishes notice of its determination*
7 *under this paragraph; and*

8 “(B) *any license held, or application filed,*
9 *which could not be held or granted under sub-*
10 *section (b) shall be reviewed by the Commission*
11 *under the provisions of paragraphs (1)(3) and*
12 *(2).*

13 “(4) *OBSERVANCE OF INTERNATIONAL OBLIGA-*
14 *TIONS.—Paragraph (3) shall not apply to the extent*
15 *the President determines that it is inconsistent with*
16 *any international agreement to which the United*
17 *States is a party.*

18 “(5) *NOTIFICATIONS TO CONGRESS.—The Presi-*
19 *dent and the Commission shall notify the appropriate*
20 *committees of the Congress of any determinations*
21 *made under paragraph (1), (2), or (3).”.*

22 **SEC. 304. TERM OF LICENSES.**

23 *Section 307(c) of the Act (47 U.S.C. 307(c)) is amend-*
24 *ed to read as follows:*

25 “(c) *TERMS OF LICENSES.—*

1 “(1) *INITIAL AND RENEWAL LICENSES.*—Each li-
2 *cence granted for the operation of a broadcasting sta-*
3 *tion shall be for a term of not to exceed seven years.*
4 *Upon application therefor, a renewal of such license*
5 *may be granted from time to time for a term of not*
6 *to exceed seven years from the date of expiration of*
7 *the preceding license, if the Commission finds that*
8 *public interest, convenience, and necessity would be*
9 *served thereby. Consistent with the foregoing provi-*
10 *sions of this subsection, the Commission may by rule*
11 *prescribe the period or periods for which licenses shall*
12 *be granted and renewed for particular classes of sta-*
13 *tions, but the Commission may not adopt or follow*
14 *any rule which would preclude it, in any case involv-*
15 *ing a station of a particular class, from granting or*
16 *renewing a license for a shorter period than that pre-*
17 *scribed for stations of such class if, in its judgment,*
18 *public interest, convenience, or necessity would be*
19 *served by such action.*

20 “(2) *MATERIALS IN APPLICATION.*—In order to
21 *expedite action on applications for renewal of broad-*
22 *casting station licenses and in order to avoid needless*
23 *expense to applicants for such renewals, the Commis-*
24 *sion shall not require any such applicant to file any*
25 *information which previously has been furnished to*

1 *the Commission or which is not directly material to*
 2 *the considerations that affect the granting or denial*
 3 *of such application, but the Commission may require*
 4 *any new or additional facts it deems necessary to*
 5 *make its findings.*

6 “(3) *CONTINUATION PENDING DECISION.—Pend-*
 7 *ing any hearing and final decision on such an appli-*
 8 *cation and the disposition of any petition for rehear-*
 9 *ing pursuant to section 405, the Commission shall*
 10 *continue such license in effect.”.*

11 **SEC. 306. BROADCAST LICENSE RENEWAL PROCEDURES.**

12 “(a) *AMENDMENT.—Section 309 of the Act (47 U.S.C.*
 13 *309) is amended by adding at the end thereof the following*
 14 *new subsection:*

15 “(k) *BROADCAST STATION RENEWAL PROCEDURES.—*

16 “(1) *STANDARDS FOR RENEWAL.—If the licensee*
 17 *of a broadcast station submits an application to the*
 18 *Commission for renewal of such license, the Commis-*
 19 *sion shall grant the application if it finds, with re-*
 20 *spect to that station, during the preceding term of its*
 21 *license—*

22 “(A) *the station has served the public inter-*
 23 *est, convenience, and necessity;*

1 “(B) there have been no serious violations
2 by the licensee of this Act or the rules and regu-
3 lations of the Commission; and

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

8 “(2) CONSEQUENCE OF FAILURE TO MEET
9 STANDARD.—If any licensee of a broadcast station
10 fails to meet the requirements of this subsection, the
11 Commission may deny the application for renewal in
12 accordance with paragraph (3), or grant such appli-
13 cation on terms and conditions as are appropriate,
14 including renewal for a term less than the maximum
15 otherwise permitted.

16 “(3) STANDARDS FOR DENIAL.—If the Commis-
17 sion determines, after notice and opportunity for a
18 hearing as provided in subsection (e), that a licensee
19 has failed to meet the requirements specified in para-
20 graph (1) and that no mitigating factors justify the
21 imposition of lesser sanctions, the Commission shall—

22 “(A) issue an order denying the renewal ap-
23 plication filed by such licensee under section 308;
24 and

1 “(B) only thereafter accept and consider
2 such applications for a construction permit as
3 may be filed under section 308 specifying the
4 channel or broadcasting facilities of the former
5 licensee.

6 “(4) **COMPETITOR CONSIDERATION PROHIB-**
7 **ITED.**—In making the determinations specified in
8 paragraph (1) or (2), the Commission shall not con-
9 sider whether the public interest, convenience, and ne-
10 cessity might be served by the grant of a license to a
11 person other than the renewal applicant.”.

12 (b) **CONFORMING AMENDMENT.**—Section 309(d) of the
13 Act (47 U.S.C. 309(d)) is amended by inserting after “with
14 subsection (a)” each place such term appears the following:
15 “(or subsection (k) in the case of renewal of any broadcast
16 station license)”.

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

20 **SEC. 306. EXCLUSIVE FEDERAL JURISDICTION OVER DI-**
21 **RECT BROADCAST SATELLITE SERVICE.**

22 Section 303 of the Act (47 U.S.C. 303) is amended by
23 adding at the end thereof the following new subsection:

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

1 **SEC. 307. AUTOMATED SHIP DISTRESS AND SAFETY SYS-**
2 **TEMS.**

3 *Notwithstanding any provision of the Act, a ship docu-*
4 *mented under the laws of the United States operating in*
5 *accordance with the Global Maritime Distress and Safety*
6 *System provisions of the Safety of Life at Sea Convention*
7 *shall not be required to be equipped with a radio telegraphy*
8 *station operated by one or more radio officers or operators.*

9 **SEC. 308. RESTRICTIONS ON OVER-THE-AIR RECEPTION DE-**
10 **VICKS.**

11 *Within 180 days after the enactment of this Act, the*
12 *Commission shall, pursuant to section 303, promulgate reg-*
13 *ulations to prohibit restrictions that inhibit a viewer's abil-*
14 *ity to receive video programming services through signal*
15 *receiving devices designed for off-the-air reception of tele-*
16 *vision broadcast signals or direct broadcast satellite serv-*
17 *ices.*

18 **SEC. 309. DBS SIGNAL SECURITY.**

19 *Section 705(e)(4) of the Act (47 U.S.C. 605(e)) is*
20 *amended by inserting after "satellite cable programming"*
21 *the following: "or programming of a licensee in the direct*
22 *broadcast satellite service".*

1 **TITLE IV—EFFECT ON OTHER**
2 **LAWS**

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

4 (a) *MODIFICATION OF FINAL JUDGMENT.—Parts II*
5 *and III of title II of the Communications Act of 1934 (as*
6 *added by this Act) shall supersede the Modification of Final*
7 *Judgment, except that such part shall not affect—*

8 (1) *section I of the Modification of Final Judg-*
9 *ment, relating to AT&T reorganization,*

10 (2) *section II(A) (including appendix B) and*
11 *II(B) of the Modification of Final Judgment, relating*
12 *to equal access and nondiscrimination,*

13 (3) *section IV(F) and IV(I) of the Modification*
14 *of Final Judgment, with respect to the requirements*
15 *included in the definitions of “exchange access” and*
16 *“information access”,*

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

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

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

23 (7) *section VIII(G) of the Modification of Final*
24 *Judgment, relating to transfer of AT&T assets, in-*

1 *cluding all exceptions granted thereunder before the*
2 *date of the enactment of this Act, and*

3 *(8) with respect to the parts of the Modification*
4 *of Final Judgment described in paragraphs (1)*
5 *through (7)—*

6 *(A) section III of the Modification of Final*
7 *Judgment, relating to applicability and effect,*

8 *(B) section IV of the Modification of Final*
9 *Judgment, relating to definitions,*

10 *(C) section V of the Modification of Final*
11 *Judgment, relating to compliance,*

12 *(D) section VI of the Modification of Final*
13 *Judgment, relating to visitorial provisions,*

14 *(E) section VII of the Modification of Final*
15 *Judgment, relating to retention of jurisdiction,*
16 *and*

17 *(F) section VIII(I) of the Modification of*
18 *Final Judgment, relating to the court's sua*
19 *sponte authority.*

20 *(b) ANTITRUST LAWS.—Nothing in this Act shall be*
21 *construed to modify, impair, or supersede the applicability*
22 *of any of the antitrust laws.*

23 *(c) FEDERAL, STATE, AND LOCAL LAW.—(1) Except*
24 *as provided in paragraph (2), parts II and III of title II*
25 *of the Communications Act of 1934 shall not be construed*

1 *to modify, impair, or supersede Federal, State, or local law*
2 *unless expressly so provided in such part.*

3 (2) *Parts II and III of title II of the Communications*
4 *Act of 1934 shall supersede State and local law to the extent*
5 *that such law would impair or prevent the operation of such*
6 *part.*

7 (d) *TERMINATION.*—*The provisions of the GTE consent*
8 *decree shall cease to be effective on the date of enactment*
9 *of this Act. For purposes of this subsection, the term “GTE*
10 *consent decree” means the order entered on December 21,*
11 *1984 (as restated on January 11, 1985), in United States*
12 *v. GTE Corporation, Civil Action No. 83–1298, in the*
13 *United States District Court for the District of Columbia,*
14 *and includes any judgment or order with respect to such*
15 *action entered on or after December 21, 1984.*

16 (e) *INAPPLICABILITY OF FINAL JUDGMENT TO WIRE-*
17 *LESS SUCCESSORS.*—*No person shall be subject to the provi-*
18 *sions of the Modification of Final Judgment by reason of*
19 *having acquired wireless exchange assets or operations pre-*
20 *viously owned by a Bell operating company or an affiliate*
21 *of a Bell operating company.*

22 (f) *ANTITRUST LAWS.*—*As used in this section, the*
23 *term “antitrust laws” has the meaning given it in sub-*
24 *section (a) of the first section of the Clayton Act (15 U.S.C.*
25 *12(a)), except that such term includes the Act of June 19,*

1 1936 (49 Stat. 1526; 15 U.S.C. 13 et seq.), commonly
2 known as the Robinson Patman Act, and section 5 of the
3 Federal Trade Commission Act (15 U.S.C. 45) to the extent
4 that such section 5 applies to unfair methods of competi-
5 tion.

6 **SEC. 402. PREEMPTION OF LOCAL TAXATION WITH RESPECT**
7 **TO DBS SERVICES.**

8 (a) **PREEMPTION.**—A provider of direct-to-home sat-
9 ellite service, or its agent or representative for the sale or
10 distribution of direct-to-home satellite services, shall be ex-
11 empt from the collection or remittance, or both, of any tax
12 or fee, as defined by subsection (b)(4), imposed by any local
13 taxing jurisdiction with respect to the provision of direct-
14 to-home satellite services. Nothing in this section shall be
15 construed to exempt from collection or remittance any tax
16 or fee on the sale of equipment.

17 (b) **DEFINITIONS.**—For the purposes of this section—

18 (1) **DIRECT-TO-HOME SATELLITE SERVICE.**—The
19 term “direct-to-home satellite service” means the
20 transmission or broadcasting by satellite of program-
21 ming directly to the subscribers’ premises without the
22 use of ground receiving or distribution equipment, ex-
23 cept at the subscribers’ premises or in the uplink
24 process to the satellite.

1 (2) *DIRECT-TO-HOME SATELLITE SERVICE PRO-*
 2 *VIDER.—For purposes of this section, a “provider of*
 3 *direct-to-home satellite service” means a person who*
 4 *transmits or broadcasts direct-to-home satellite serv-*
 5 *ices.*

6 (3) *LOCAL TAXING JURISDICTION.—The term*
 7 *“local taxing jurisdiction” means any municipality,*
 8 *city, county, township, parish, transportation dis-*
 9 *trict, or assessment jurisdiction, or any other local ju-*
 10 *risdiction with the authority to impose a tax or fee.*

11 (4) *TAX OR FEE.—The terms “tax” and “fee”*
 12 *mean any local sales tax, local use tax, local intangi-*
 13 *ble tax, local income tax, business license tax, utility*
 14 *tax, privilege tax, gross receipts tax, excise tax, fran-*
 15 *chise fees, local telecommunications tax, or any other*
 16 *tax, license, or fee that is imposed for the privilege of*
 17 *doing business, regulating, or raising revenue for a*
 18 *local taxing jurisdiction.*

19 (c) *EFFECTIVE DATE.—This section shall be effective*
 20 *as of June 1, 1994.*

21 **TITLE V—DEFINITIONS**

22 **SEC. 501. DEFINITIONS.**

23 (a) *ADDITIONAL DEFINITIONS.—Section 3 of the Act*
 24 *(47 U.S.C. 153) is amended—*

25 (1) *in subsection (r)—*

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

2 (B) by inserting before the period at the end

3 the following: “, or (B) service provided through

4 a system of switches, transmission equipment, or

5 other facilities (or combination thereof) by which

6 a subscriber can originate and terminate a tele-

7 communications service within a State but

8 which does not result in the subscriber incurring

9 a telephone toll charge”; and

10 (2) by adding at the end thereof the following:

11 “(35) *AFFILIATE*.—The term ‘affiliate’, when

12 used in relation to any person or entity, means an-

13 other person or entity who owns or controls, is owned

14 or controlled by, or is under common ownership or

15 control with, such person or entity.

16 “(36) *BELL OPERATING COMPANY*.—The term

17 ‘Bell operating company’ means—

18 “(A) Bell Telephone Company of Nevada,

19 Illinois Bell Telephone Company, Indiana Bell

20 Telephone Company, Incorporated, Michigan

21 Bell Telephone Company, New England Tele-

22 phone and Telegraph Company, New Jersey Bell

23 Telephone Company, New York Telephone Com-

24 pany, U S West Communications Company,

25 South Central Bell Telephone Company, South-

1 *ern Bell Telephone and Telegraph Company,*
2 *Southwestern Bell Telephone Company, The Bell*
3 *Telephone Company of Pennsylvania, The Ches-*
4 *apeake and Potomac Telephone Company, The*
5 *Chesapeake and Potomac Telephone Company of*
6 *Maryland, The Chesapeake and Potomac Tele-*
7 *phone Company of Virginia, The Chesapeake*
8 *and Potomac Telephone Company of West Vir-*
9 *ginia, The Diamond State Telephone Company,*
10 *The Ohio Bell Telephone Company, The Pacific*
11 *Telephone and Telegraph Company, or Wiscon-*
12 *sin Telephone Company;*

13 *“(B) any successor or assign of any such*
14 *company that provides telephone exchange serv-*
15 *ice.*

16 *“(37) CABLE SYSTEM.—The term ‘cable system’*
17 *has the meaning given such term in section 602(7) of*
18 *this Act.*

19 *“(38) CUSTOMER PREMISES EQUIPMENT.—The*
20 *term ‘customer premises equipment’ means equipment*
21 *employed on the premises of a person (other than a*
22 *carrier) to originate, route, or terminate tele-*
23 *communications.*

24 *“(39) DIALING PARITY.—The term ‘dialing par-*
25 *ity’ means that a person that is not an affiliated en-*

1 *terprise of a local exchange carrier is able to provide*
2 *telecommunications services in such a manner that*
3 *customers have the ability to route automatically,*
4 *without the use of any access code, their telecommuni-*
5 *cations to the telecommunications services provider of*
6 *the customer's designation from among 2 or more tele-*
7 *communications services providers (including such*
8 *local exchange carrier).*

9 *“(40) EXCHANGE ACCESS.—The term ‘exchange*
10 *access’ means the offering of telephone exchange serv-*
11 *ices or facilities for the purpose of the origination or*
12 *termination of interLATA services.*

13 *“(41) INFORMATION SERVICE.—The term ‘infor-*
14 *mation service’ means the offering of a capability for*
15 *generating, acquiring, storing, transforming, process-*
16 *ing, retrieving, utilizing, or making available infor-*
17 *mation via telecommunications, and includes elec-*
18 *tronic publishing, but does not include any use of any*
19 *such capability for the management, control, or oper-*
20 *ation of a telecommunications system or the manage-*
21 *ment of a telecommunications service.*

22 *“(42) INTERLATA SERVICE.—The term*
23 *‘interLATA service’ means telecommunications be-*
24 *tween a point located in a local access and transport*
25 *area and a point located outside such area.*

1 “(43) *LOCAL ACCESS AND TRANSPORT AREA.*—
2 *The term ‘local access and transport area’ or ‘LATA’*
3 *means a contiguous geographic area—*

4 “(A) *established by a Bell operating com-*
5 *pany such that no exchange area includes points*
6 *within more than 1 metropolitan statistical*
7 *area, consolidated metropolitan statistical area,*
8 *or State, except as expressly permitted under the*
9 *Modification of Final Judgment before the date*
10 *of the enactment of this paragraph; or*

11 “(B) *established or modified by a Bell oper-*
12 *ating company after the date of enactment of*
13 *this paragraph and approved by the Commis-*
14 *sion.*

15 “(44) *LOCAL EXCHANGE CARRIER.*—*The term*
16 *‘local exchange carrier’ means any person that is en-*
17 *gaged in the provision of telephone exchange service or*
18 *exchange access. Such term does not include a person*
19 *insofar as such person is engaged in the provision of*
20 *a commercial mobile service under section 332(c), ex-*
21 *cept to the extent that the Commission finds that such*
22 *service as provided by such person in a State is a re-*
23 *placement for a substantial portion of the wireline*
24 *telephone exchange service within such State.*

1 “(45) *MODIFICATION OF FINAL JUDGMENT.*—The
2 term ‘*Modification of Final Judgment*’ means the
3 order entered August 24, 1982, in the antitrust action
4 style:1 *United States v. Western Electric*, Civil Action
5 No. 82-0192, in the United States District Court for
6 the District of Columbia, and includes any judgment
7 or order with respect to such action entered on or
8 after August 24, 1982.

9 “(46) *NUMBER PORTABILITY.*—The term ‘*number*
10 *portability*’ means the ability of users of telecommuni-
11 *cations services to retain existing telecommunications*
12 *numbers without impairment of quality, reliability,*
13 *or convenience when changing from one provider of*
14 *telecommunications services to another, as long as*
15 *such user continues to be located within the area*
16 *served by the same central office of the carrier from*
17 *which the user is changing.*

18 “(47) *RURAL TELEPHONE COMPANY.*—The term
19 ‘*rural telephone company*’ means a local exchange
20 carrier operating entity to the extent that such en-
21 tity—

22 “(A) provides common carrier service to
23 any local exchange carrier study area that does
24 not include either—

1 “(i) any incorporated place of 10,000
2 inhabitants or more, or any part thereof,
3 based on the most recent available popu-
4 lation statistics of the Bureau of the Census;
5 or

6 “(ii) any territory, incorporated or un-
7 incorporated, included in an urbanized
8 area, as defined by the Bureau of the Cen-
9 sus as of August 10, 1993;

10 “(B) provides telephone exchange service,
11 including telephone exchange access service, to
12 fewer than 50,000 access lines;

13 “(C) provides telephone exchange service to
14 any local exchange carrier study area with fewer
15 than 100,000 access lines; or

16 “(D) has less than 15 percent of its access
17 lines in communities of more than 50,000 on the
18 date of enactment of this paragraph.

19 “(48) TELECOMMUNICATIONS.—The term ‘tele-
20 communications’ means the transmission, between or
21 among points specified by the subscriber, of informa-
22 tion of the subscriber’s choosing, without change in
23 the form or content of the information as sent and re-
24 ceived, by means of an electromagnetic transmission
25 medium, including all instrumentalities, facilities,

1 *apparatus, and services (including the collection, stor-*
2 *age, forwarding, switching, and delivery of such in-*
3 *formation) essential to such transmission.*

4 “(49) *TELECOMMUNICATIONS EQUIPMENT.*—*The*
5 *term ‘telecommunications equipment’ means equip-*
6 *ment, other than customer premises equipment, used*
7 *by a carrier to provide telecommunications services,*
8 *and includes software integral to such equipment (in-*
9 *cluding upgrades).*

10 “(50) *TELECOMMUNICATIONS SERVICE.*—*The*
11 *term ‘telecommunications service’ means the offering,*
12 *on a common carrier basis, of telecommunications fa-*
13 *ilities, or of telecommunications by means of such fa-*
14 *ilities. Such term does not include an information*
15 *service.”.*

16 **(b) *STYLISTIC CONSISTENCY.***—*Section 3 of the Act (47*
17 *U.S.C. 153) is amended—*

18 (1) *in subsections (e) and (n), by redesignating*
19 *clauses (1), (2) and (3), as clauses (A), (B), and (C),*
20 *respectively;*

21 (2) *in subsection (w), by redesignating para-*
22 *graphs (1) through (5) as subparagraphs (A) through*
23 *(E), respectively;*

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

4 (4) by redesignating subsections (a) through (ff)
5 as paragraphs (1) through (32);

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

7 (6) by inserting after the designation of each
8 such paragraph—

9 (A) a heading, in a form consistent with the
10 form of the heading of this subsection, consisting
11 of the term defined by such paragraph, or the
12 first term so defined if such paragraph defines
13 more than one term; and

14 (B) the words “The term”;

15 (7) by changing the first letter of each defined
16 term in such paragraphs from a capital to a lower
17 case letter (except for “United States”, “State”,
18 “State commission”, and “Great Lakes Agreement”);
19 and

20 (8) by reordering such paragraphs and the addi-
21 tional paragraphs added by subsection (a) in alpha-
22 betical order based on the headings of such para-
23 graphs and renumbering such paragraphs as so reor-
24 dered.

1 (c) *CONFORMING AMENDMENTS.—The Act is amend-*
2 *ed—*

3 (1) *in section 225(a)(1), by striking “section*
4 *3(h)” and inserting “section 3”;*

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

7 (3) *in sections 621(d)(3), 636(d), and 637(a)(2),*
8 *by striking “section 3(v)” and inserting “section 3”.*

9 **TITLE VI—SMALL BUSINESS**

10 **COMPLAINT PROCEDURE**

11 **SEC. 601. COMPLAINT PROCEDURE.**

12 (a) *PROCEDURE REQUIRED.—The Federal Commu-*
13 *nications Commission shall establish procedures for the re-*
14 *ceipt and review of complaints concerning violations of the*
15 *Communications Act of 1934, and the rules and regulations*
16 *thereunder, that are likely to result, or have resulted, as a*
17 *result of the violation, in material financial harm to a pro-*
18 *vider of telemessaging service, or other small business en-*
19 *gaged in providing an information service or other tele-*
20 *communications service. Such procedures shall be estab-*
21 *lished within 120 days after the date of enactment of this*
22 *Act.*

23 (b) *DEADLINES FOR PROCEDURES; SANCTIONS.—The*
24 *procedures under this section shall ensure that the Commis-*
25 *sion will make a final determination with respect to any*

1 such complaint within 120 days after receipt of the com-
2 plaint. If the complaint contains an appropriate showing
3 that the alleged violation occurred, as determined by the
4 Commission in accordance with such regulations, the Com-
5 mission shall, within 60 days after receipt of the complaint,
6 order the common carrier and its affiliates to cease engag-
7 ing in such violation pending such final determination. In
8 addition, the Commission may exercise its authority to im-
9 pose other penalties or sanctions, to the extent otherwise
10 provided by law.

11 (c) *DEFINITION.*—For purposes of this section, a small
12 business shall be any business entity that, along with any
13 affiliate or subsidiary, has fewer than 300 employees.

