be provided through an appropriation directly to the board of trustees.

I had some concerns about certain provisions of the bill as introduced, and the version approved by the Committee on National Resources made what I believe are significant improvements. First, the board of trustees will be required to provide for the center's management in a manner consistent with other National Presidential memorials. By law, and under this legislation, the center will remain a memorial to the late President. I believe we must have a clearly enunciated policy to ensure that the center meets the high standard fitting a National memorial.

Second, the bill requires the grounds to be managed consistent with current National Park Service regulations and agreements. While I agree that separation of powers is necessary and a positive step in accomplishing the required renovations, I remain concerned about the impact on surrounding National Park Service property. Because of the Kennedy Center's location amid heavily used and fragile National Park resources, I believe there should be continuity and consistency in the management of the grounds. The bill, as amended, requires the Kennedy Center to continue to manage the grounds according to current National Park Service regulations and agreements; any changes in such management must be approved by the secretary and enacted by Congress. This ensures the appropriate maintenance of both the building and the grounds while protecting the National Park Service interest in the surrounding property and open space.

Finally, the Committee on National Resources had included a provision referencing a map delineating the boundaries of the John F. Kennedy Center for the Performing Arts, which upon enactment would be under the jurisdiction of the board of trustees.

I understand that the Senate made some changes in the legislation, but I have reviewed their version, and am satisfied that the bill we are considering today retains those provisions advocated by the Committee on Natural Resources. I believe the version before us enables much needed improvements to be made to the Kennedy Center while protecting the interests of the National Park Service, and I urge my colleagues' support.

Mr. MINETA. Mr. Speaker, I rise in strong support of H.R. 3567, the John F. Kennedy Center Act Amendments of 1994, as amended. H.R. 3567 already passed the House on May 10, 1994. The Senate made some technical changes to the bill which we are concurring in at this time.

Mr. Speaker, today is indeed a historic occasion as this bill, by making significant changes to the John F. Kennedy Center Act, gives the Kennedy Center, for the first time, full responsibility for its own activities.

First of all, Mr. Speaker, I want to commend the gentleman from Ohio, the subcommittee chairman on Public Buildings and Grounds [Mr. TRAFICANT], and the subcommittee's ranking republican member [Mr. DUNCAN], for their fine leadership on this important measure. I would also like to recognize and thank the Committee on Natural Resources' Chairman GEORGE MILLER, ranking Republican DON YOUNG, Chairman BRUCE VENTO, and ranking Republican member JAMES HANSEN of their Subcommittee on Natural Parks, Forest, and Public Lands and their staffs for their cooperation and hard work on this measure. I am pleased that this bill enjoys such broad bipartisan support. It is truly a visionary piece of legislation.

H.R. 3567, the John F. Kennedy Center Act Amendments of 1994, as amended, represents months of sustained effort, coordination and hard work by both the Kennedy Center, primarily Mr. James Wolfensohn, chairman of the board at the John F. Kennedy Center for the Performing Arts, and his staff, and the Department of Interior, specifically Secretary Babbitt and the representatives from the National Park Service. They all deserve our praise and thanks.

The Kennedy Center, like the Smithsonian Institution and its other bureaus, is a unique trust instrumentality of the United States. The original Act establishes the Kennedy Center not only as a cultural arts center, but also charges it with the responsibility of administering a living memorial to President John F. Kennedy. Finally, it has a mandated mission to serve both the local and national community.

Currently, the management of operations and maintenance of the Kennedy Center is shared between the center's board of trustees and the National Park Service of the Department of Interior. Over the past 23 years since the building was constructed, there have been several building defects and maintenance problems. The Kennedy Center Board and the Park Service have tried to share responsibility for the nonperforming arts aspects of the Kennedy Center's operations. Unfortunately, this shared approach has not been as successful as both would have hoped.

This bill, as amended, addresses this fundamental issue by giving the Kennedy Center sole responsibility for its building and site. As such, the Center will receive directly the general fund appropriations necessary to fulfill its new responsibilities. Currently, the nonperforming arts functions of the Center are funded by appropriations to the Park Service.

With the passage of this historic bill, the Kennedy Center management will for the first time enjoy both the responsibility and accountability for its buildings, theaters, and its performing arts and education activities. But with the responsibility also comes the opportunity to set a vision for the future. The current Kennedy Center management welcomes its new challenge and we are proud to have helped frame its mandate.

Mr. Speaker, this legislation affirms once again the fundamental mission of the Nation's living memorial to President Kennedy and I strongly urge its adoption.

Mr. TRAFICANT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 3567.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3567, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ANTITRUST AND COMMUNICATIONS REFORM ACT OF 1994

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3626) to supersede the Modification of Final Judgment entered August 24, 1982, in the antitrust action styled *United States* v. *Western Electric*, Civil Action No. 82-0192, U.S. District Court for the District of Columbia; to amend the Communications Act of 1934 to regulate the manufacturing of Bell operating companies, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3626

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLES; TABLE OF CONTENTS.

(a) SHORT TITLE OF THIS ACT.—This Act may be cited as the "Antitrust and Communications Reform Act of 1994".

(b) SHORT TITLE OF TITLE I OF THIS ACT.—Title I of this Act may be cited as the "Antitrust Reform Act of 1994".

(c) TABLE OF CONTENTS.—

TITLE I—SUPERSESSION OF THE MODIFICATION OF FINAL JUDGMENT

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

(a) APPLICATION.—

(1) IN GENERAL.—After the applicable date specified in paragraph (2), a Bell operating company may apply to the Attorney General and the Federal Communications Commission for authorization, notwithstanding the Modification of Final Judgment—

(A) to provide alarm monitoring services, or

(B) to provide interexchange telecommunications services.

The application shall describe with particularity the nature and scope of the activity, and of each product market or service market, and each geographic market, for which authorization is sought.

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

(A) the date of the enactment of this Act, with respect to providing interexchange telecommunications services, and

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

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

(4) PUBLICATION.—Not later than 10 days after receiving an application made under paragraph (1), the Attorney General and the Federal Communications Commission jointly shall publish the application in the Federal Register.

(b) SEPARATE DETERMINATIONS BY THE ATTORNEY GENERAL AND THE FEDERAL COMMUNICATIONS COMMISSION.—

(1) COMMENT PERIOD.—Not later than 45 days after an application is published under subsection (a)(4), interested persons may submit written comments to the Attorney General, to the Federal Communications Commission, or to both regarding the application. Submitted comments shall be available to the public.

(2) INTERAGENCY CONSULTATION.—Before making their respective determinations under paragraph (3), the Attorney General and the Federal Communications Commission shall consult with each other regarding the application involved.

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

(B) Such determination shall be based on a preponderence of the evidence.

(C) Any person who would be threatened with loss or damage as a result of the approval of the authorization requested shall be permitted to participate as a party in the proceeding on which the determination is based.

(D)(i) The Attorney General shall approve the granting of the authorization requested in the application only to the extent that the Attorney General finds that there is no substantial possibility that such company or its affiliates could use monopoly power to impede competition in the market such company seeks to enter. The Attorney General shall deny the remaindor of the requested authorization.

(ii) The Federal Communications Commission shall approve the granting of the requested authorization only to the extent that the Commission finds that granting the requested authorization is consistent with the public interest, convenience, and necessity. The Commission shall deny the remainder of the requested authorization.

(iii) Notwithstanding clauses (i) and (ii), not later than 180 days after the date of the enactment of this Act, the Attorney General and the Federal Communications Commission shall each prescribe regulations to establish procedures and criteria for the expedited determination and approval of applications for authorization to provide interexchange telecommunications services (other than services described in section 102(c)) that are incidental to the provision of another service which the Bell operating company may lawfully provide. Before prescribing such regulations, the Attorney General and the Commission shall consult with respect to such regulations, including consultation for the purpose of avoiding unnecessary inconsistencies in such regulations.

(E) In making its determination under subparagraph (D)(ii) regarding the public interest, convenience, and necessity, the Commission shall take into account—

(i) the probability that granting the requested authorization will secure reduced rates for consumers of the services that are the subject of the application, especially residential subscribers,

(ii) whether granting the requested authorization will result in increases in rates for consumers of exchange service,

(iii) the extent to which granting the requested authorization will expedite the delivery of new services and products to consumers,

(iv) the extent to which the Commission's regulations, or other laws or regulations, will preclude the applicant from engaging in predatory pricing or other anticompetitive economic practices with respect to the services that are the subject of the application,

(v) the extent to which granting the requested authorization will permit collusive acts or practices between or among Bell operating companies that are not affiliates of each other,

(vi) whether granting the requested authorization will result, directly or indirectly, in increasing concentration among providers of the service that is the subject of the application to such an extent that consumers will not be protected from rates that are unjust or unreasonable or that are unjustly or unreasonably discriminatory, and

(vii) in the case of an application to provide alarm monitoring services, whether the Commission has the capability to enforce effectively the regulations established pursuant to section 230 of the Communications Act of 1934 as added by this Act.

(F) A determination that approves the granting of any part of a requested authorization shall describe with particularity the nature and scope of the activity, and of each product market or service market, and each geographic market, to which approval applies.

(4) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (3), the Attorney General or the Federal Communications Commission, as the case may be, shall publish in the Federal Register a brief description of the determination.

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

(6) AUTHORIZATION GRANTED.—A requested authorization is granted to the extent that—

(A)(i) both the Attorney General and the Federal Communications Commission approve under paragraph (3) the granting of the authorization, and

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

(B) as a result of such judicial review of either or both determinations, both the Attorney General and the Federal Communications Commission approve the granting of the requested authorization.

(c) JUDICIAL REVIEW.—

(1) COMMENCEMENT OF ACTION.—Not later than 45 days after a determination by the Attorney General or the Federal Communications Commission is published under subsection (b)(4), the Bell operating company that applied to the Attorney General and the Federal Communications Commission under subsection (a), or any person who would be threatened with loss or damage as a result of the determination regarding such company's engaging in the activity described in such company's application, may commence an action in the United States Court of Appeals for the District of Columbia Circuit against the Attorney General or the Federal Communications Commission, as the case may be, for judicial review of the determination regarding the application.

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

(3) CONSOLIDATION OF ACTIONS.—The court shall consolidate for judicial review all actions commenced under this subsection with respect to the application.

(4) JUDGMENT.—(A) The court shall enter a judgment after reviewing the determination in accordance with section 706 of title 5 of the United States Code.

(B) A judgment—

(i) affirming any part of the determination that approves granting all or part of the requested authorization, or

(ii) reversing any part of the determination that denies all or part of the requested authorization,

shall describe with particularity the nature and scope of the activity, and of each product market or service market, and each geographic market, to which the affirmance or reversal applies.

SEC. 103. AUTHORIZATION AS PREREQUISITE.

(a) PREREQUISITE.—Until a Bell operating company is so authorized in accordance with section 101, it shall be unlawful for such company, directly or through an affiliated enterprise, to engage in an activity described in section 101(a)(1).

(b) GENERAL EXCEPTIONS.—Except with respect to providing alarm monitoring services, subsection (a) shall not prohibit a Bell operating company from engaging, at any time after the date of the enactment of this Act—

(1) in any activity as authorized by an order entered by the United States District Court for the District of Columbia pursuant to section VII or VIII(C) of the Modification of Final Judgment, if—

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

(B) a request for such authorization was pending before such court on the date of the enactment of this Act,

(2) in providing intrastate interexchange telecommunications services if—

(A) after the date of the enactment of this Act, the State involved approves or authorizes such company to provide such services, after taking into account the potential effects of such approval or authorization on competition and the public interest,

(B) not less than 90 days before such company offers to provide such services, such company gives notice to the public and the

Attorney General that such approval or authorization has been granted by such State, and appoints an agent for the purpose of receiving service of process,

(C) the Attorney General—

(i) fails to commence a civil action in accordance with subsection (d), not later than 90 days after the Attorney General receives the notice described in subparagraph (B), to enjoin such company from providing such services, or

(ii) so commences such civil action but—

(I) fails to obtain an injunction from the district court involved enjoining such company from providing such services, or

(II) such injunction issued by such court is vacated on appeal, and

(D) the Bell operating company is required by regulations prescribed by the Federal Communications Commission and such State, for the services subject to their respective jurisdictions, to pay a nondiscriminatory access charge to the local exchange carrier (including itself) that provides the Bell operating company with telephone exchange access, and

(3) in providing interexchange telecommunications services through resale of telecommunications services purchased from a person who is not an affiliated enterprise of such company if—

(A) such interexchange telecommunications services involve only telecommunications that originate in a State in which, on the date of the enactment of this Act, such company provided wireline telephone exchange services,

(B) such State has approved or authorized persons that are not affiliated enterprises of such company to provide intraexchange toll telecommunications services in such a manner that customers in such State have the ability to route automatically, without the use of any access code, their intraexchange toll telecommunications to the telecommunications services provider of the customer's designation from among 2 or more telecommunications services providers (including such company),

(C) after the date of the enactment of this Act and not less than 90 days before such company offers to provide such interexchange telecommunications services, such company gives notice to the public and the Attorney General that such approval or authorization has been granted by such State, and

(D) the Attorney General—

(i) fails to commence a civil action in accordance with subsection (d), not later than 90 days after the Attorney General receives the notice described in subparagraph (C), to enjoin such company from providing such services, or

(ii) so commences such civil action but—

(I) fails to obtain an injunction from the district court involved enjoining such company from providing such services, or

(II) such injunction issued by such court is vacated on appeal.

(c) EXCEPTIONS FOR INCIDENTAL SERVICES.—Subsection (a) shall not prohibit a Bell operating company, at any time after the date of the enactment of this Act, from providing interexchange telecommunications services for the purpose of—

(1)(A) providing audio programming, video programming, or other programming services to subscribers to such services of such company,

(B) providing the capability for interaction by such subscribers to select or respond to such audio programming, video programming, or other programming services, or

(C) providing to distributors audio programming or video programming that such company owns, controls, or is licensed by the copyright owner of such programming, or by an assignee of such owner, to distribute,

(2) providing a telecommunications service, using the transmission facilities of a cable system that is an affiliate of such company, between exchange areas within a cable system franchise area in which such company is not, on the date of the enactment of this Act, a provider of wireline telephone exchange service,

(3) providing commercial mobile services in accordance with section 332(c) of the Communications Act of 1934 (47 U.S.C. 332(c)) and with the regulations prescribed by the Commission pursuant to paragraph (7) of such section,

(4) providing a service that permits a customer that is located in one exchange area to retrieve stored information from, or file information for storage in, information storage facilities of such company that are located in another exchange area,

(5) providing signaling information used in connection with the provision of exchange services to a local exchange carrier that, together with any affiliated local exchange carriers, has aggregate annual revenues of less than $100,000,000, or

(6) providing network control signaling information to, and receiving such signaling information from, interexchange carriers at any location within the area in which such company provides exchange services or exchange access.

(d) CIVIL ACTION.—(1) For the purpose of paragraph (2) or (3) of subsection (b), the Attorney General shall commence a civil action, not later than 90 days after receiving the notice required by paragraph (2)(B) or (3)(C) of such subsection, respectively, to enjoin such company from providing interexchange telecommunications services pursuant to such paragraph if the Attorney General determines that the standard specified in the first sentence of section 101(b)(3)(D)(i) is not satisfied with respect to providing such interexchange telecommunications services.

(2) With respect to a civil action commenced for the purpose of paragraph (2) or (3) of subsection (b), venue shall lie in any district court of the United States in the State that granted the approval or authorization referred to in such paragraph.

(3) If the Attorney General does not commence a civil action in accordance with paragraph (1) before the expiration of the 90-day period beginning on the date the Attorney General receives such notice, the Attorney General shall publish in the Federal Register a brief statement that the Attorney General has determined not to commence such civil action.

SEC. 103. LIMITATIONS ON MANUFACTURING AND PROVIDING EQUIPMENT.

(a) ABSOLUTE LIMITATION.—Until the expiration of the 1-year period beginning on the date of the enactment of this Act, it shall be unlawful for a Bell operating company, directly or through an affiliated enterprise, to manufacture or provide telecommunications equipment, or to manufacture customer premises equipment.

(b) QUALIFIED LIMITATION.—

(1) REQUIRED CONDITIONS.—After the expiration of the 1-year period beginning on the date of the enactment of this Act, it shall be lawful for a Bell operating company, directly or through an affiliated enterprise, to manufacture or provide telecommunications equipment, or to manufacture customer premises equipment, to the extent described in a notification to the Attorney General that meets the requirements of paragraph (2) and only if—

(A) such company submits to the Attorney General, at any time after the date of the enactment of this Act, the notification described in paragraph (2) and such additional material and information described in such paragraph as the Attorney General may request, and complies with the waiting period specified in paragraph (3), and

(B)(i) the waiting period specified in paragraph (3) expires without the commencement of a civil action by the Attorney General in accordance with paragraph (4) to enjoin such company from engaging in the activity described in such notification, or

(ii) before the expiration of such waiting period, the Attorney General notifies such company in writing that the Attorney General does not intend to commence such a civil action with respect to such activity.

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

(3) WAITING PERIOD.—The waiting period referred to in paragraph (1) is the 1-year period beginning on the date the notification required by such paragraph is received by the Attorney General.

(4) CIVIL ACTION.—Not later than 1 year after receiving a notification required by paragraph (1), the Attorney General may commence a civil action in an appropriate district court of the United States to enjoin the Bell operating company from engaging in the activity described in such notification, if the Attorney General determines that there is a substantial possibility that such company or its affiliates could use monopoly power to impede competition in the market it seeks to enter with respect to such activity.

(c) EXCEPTION FOR PREVIOUSLY AUTHORIZED ACTIVITIES.—Subsections (a) and (b) shall not prohibit a Bell operating company from engaging, at any time after the date of the enactment of this Act, in any activity as authorized by an order entered by the United States District Court for the District of Columbia pursuant to section VII or VIII(C) of the Modification of Final Judgment, if—

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

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

SEC. 104. ANTICOMPETITIVE TYING ARRANGEMENTS.

A Bell operating company with monopoly power in any exchange service market shall not tie (directly or indirectly) in any relevant market the sale of any product or service to the provision of any telecommunications service, if the effect of such tying may be to substantially lessen competition, or to tend to create a monopoly, in any line of commerce.

SEC. 105. ENFORCEMENT.

(a) EQUITABLE POWERS OF UNITED STATES ATTORNEYS.—It shall be the duty of the several United States attorneys, under the direction of the Attorney General, to institute proceedings in equity in their respective districts to prevent and restrain violations of this title.

(b) CRIMINAL LIABILITY.—Whoever knowingly engages or knowingly attempts to engage in an activity that is prohibited by section 102, 103, or 104 shall be guilty of a felony, and on conviction thereof, shall be punished to the same extent as a person is punished upon conviction of a violation of section 1 of the Sherman Act (15 U.S.C. 1).

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

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

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

The court may award under this section, pursuant to a motion by such person promptly made, simple interest on actual damages for the period beginning on the date of service of such person's pleading setting forth a claim under this title and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances.

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

(e) JURISDICTION.—(1) Subject to paragraph (2), the courts of the United States shall have exclusive jurisdiction to make determinations with respect to a duty, claim, or right arising under this title, other than determinations authorized to be made by the Attorney General and the Federal Communications Commission under section 101(b)(3).

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

(3) No action commenced to assert or enforce a duty, claim, or right arising under this title shall be stayed pending any such determination by the Attorney General or the Federal Communications Commission.

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

(g) APPLICABILITY OF OTHER LAWS TO ENFORCEMENT OF THIS TITLE.—

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

(2) ANTITRUST CIVIL PROCESS ACT.—Section 2(a) of the Antitrust Civil Process Act (15 U.S.C. 1311(a)) is amended—

(A) in paragraph (1) by striking "and" at the end,

(B) in paragraph (2) by striking the period at the end and inserting "and", and

(C) by adding at the end the following:

"(3) title I of the Antitrust and Communications Reform Act of 1994.".

SEC. 108. DEFINITIONS.

For purposes of this title:

(1) AFFILIATE.—The term "affiliate" means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, to own refers to owning an equity interest (or the equivalent thereof) of more than 50 percent.

(2) ALARM MONITORING SERVICE.—The term "alarm monitoring service" means a service that uses a device located at a residence, place of business, or other fixed premises—

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

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

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

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

(4) AUDIO PROGRAMMING.—The term "audio programming" means programming provided by, or generally considered comparable to programming provided by, a radio broadcast station.

(5) BELL OPERATING COMPANY.—The term "Bell operating company" means—

(A) Bell Telephone Company of Nevada, Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, New England Telephone and Telegraph Company, New Jersey Bell Telephone Company, New York Telephone Company, U S West Communications Company, South Central Bell Telephone Company, Southern Bell Telephone and Telegraph Company, Southwestern Bell Telephone Company, The Bell Telephone Company of Pennsylvania, The Chesapeake and Potomac Telephone Company, The Chesapeake and Potomac Telephone Company of Maryland, The Chesapeake and Potomac Telephone Company of Virginia, The Chesapeake and Potomac Telephone Company of West Virginia, The Diamond State Telephone Company, The Ohio Bell Telephone Company, The Pacific Telephone and Telegraph Company, or Wisconsin Telephone Company,

(B) any successor or assign of any such company, or

(C) any affiliate of any person described in subparagraph (A) or (B).

(6) CABLE SYSTEM.—The term "cable system" has the meaning given such term in section 602(7) of the Communications Act of 1934 (47 U.S.C. 522(7)).

(7) CARRIER.—The term "carrier" has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(8) COMMERCIAL MOBILE SERVICES.—The term "commercial mobile services" has the meaning given such term in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d)).

(9) CUSTOMER PREMISES EQUIPMENT.—The term "customer premises equipment" means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications, and includes software integral to such equipment.

(10) EXCHANGE ACCESS.—The term "exchange access" means exchange services provided for the purpose of originating or terminating interexchange telecommunications.

(11) EXCHANGE AREA.—The term "exchange area" means a contiguous geographic area established by a Bell operating company such that no exchange area includes points within more than 1 metropolitan statistical area, consolidated metropolitan statistical area, or State, except as expressly permitted under the Modification of Final Judgment before the date of the enactment of this Act.

(12) EXCHANGE SERVICE.—The term "exchange service" means a telecommunications service provided within an exchange area.

(13) INFORMATION.—Except as provided in paragraph (17), the term "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or other symbols.

(14) INTEREXCHANGE TELECOMMUNICATIONS.—The term "interexchange telecommunications" means telecommunications between a point located in an exchange area and a point located outside such exchange area.

(15) MANUFACTURE.—The term "manufacture" has the meaning given such term under the Modification of Final Judgment.

(16) MODIFICATION OF FINAL JUDGMENT.—The term "Modification of Final Judgment" means the order entered August 24, 1982, in the antitrust action styled United States v. Western Electric, Civil Action No. 82-0192, in the United States District Court for the District of Columbia, and includes any judgment or order with respect to such action entered on or after August 24, 1982.

(17) OTHER PROGRAMMING SERVICES.—The term "other programming services" means information (other than audio programming or video programming) that the person who offers a video programming service makes available to all subscribers generally. For purposes of the preceding sentence, the terms "information" and "makes available to all subscribers generally" have the same meaning such terms have under section 602(13) of the Communications Act of 1934 (47 U.S.C. 522(13)).

(18) PERSON.—The term "person" has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

(19) STATE.—The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, Palau, or any territory or possession of the United States.

(20) TELECOMMUNICATIONS.—The term "telecommunications" means the transmission of information between points by electromagnetic means.

(21) TELECOMMUNICATIONS EQUIPMENT.—The term "telecommunications equipment" means equipment, other than customer premises equipment, used by a carrier to provide a telecommunications service, and includes software integral to such equipment.

(22) TELECOMMUNICATIONS SERVICE.—The term "telecommunications service" means the offering for hire of transmission facilities or of telecommunications by means of such facilities.

(23) TRANSMISSION FACILITIES.—The term "transmission facilities" means equipment (including wire, cable, microwave, satellite, and fiber-optics) that transmits information by electromagnetic means or that directly supports such transmission, but does not include customer premises equipment.

(24) VIDEO PROGRAMMING.—The term "video programming" has the meaning given such term in section 602(19) of the Communications Act of 1934 (47 U.S.C. 522(19)).

SEC. 107. RELATIONSHIP TO OTHER LAWS.

(a) MODIFICATION OF FINAL JUDGMENT.—This title shall supersede the Modification of Final Judgment, except that this title shall not affect—

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

(2) section II(A) (including appendix B) and II(B) of the Modification of Final Judgment, relating to equal access and nondiscrimination,

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

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

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

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

(7) section VIII(G) of the Modification of Final Judgment, relating to transfer of AT&T assets, including all exceptions granted thereunder before the date of the enactment of this Act, and

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

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

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

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

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

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

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

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

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

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

(d) CUMULATIVE PENALTY.—Any penalty imposed, or relief granted, under this title shall be in addition to, and not in lieu of, any penalty or relief authorized by any other law to be imposed with respect to conduct described in this title.

SEC. 108. REQUIRED REGULATORY ACTIONS.

(a) REGULATIONS TO PROHIBIT CROSS-SUBSIDIES.—Not later than 180 days after the date of enactment of this Act, the Federal Communications Commission shall review its regulations and revise such regulations to the extent necessary to prevent a Bell operating company from engaging in any improper cross-subsidization in connection with any of the services described in paragraphs (1) through (6) of section 102(c).

(b) MOBILE SERVICE ACCESS.—

(1) AMENDMENT.—Section 332(c) of the Communications Act of 1934 (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:

"(7) MOBILE SERVICES ACCESS.—Within 180 days after the date of enactment of this paragraph, the Commission shall review its regulations with respect to the access to interexchange services provided to subscribers to commercial mobile services and revise such regulations to the extent necessary to protect the public interest, convenience, and necessity. In revising such regulations, the Commission—

"(A) shall, until January 1, 1998, and may thereafter (i) require that each provider of two-way commercial mobile services afford its subscribers nondiscriminatory access to a provider of interexchange services of the subscriber's choice, and (ii) establish geographic service areas within which providers of two-way commercial mobile services shall be exempt from the access obligation under clause (i);

"(B) may establish or revise technical interconnection requirements on providers of two-way commercial mobile services;

"(C) subject to section 104 of the Antitrust and Communications Reform Act of 1994, and the provisions of paragraph (1) of this subsection and subparagraph (A) of this paragraph and the regulations prescribed thereunder, may permit (with or without conditions) or prohibit the bundling of two-way commercial mobile services with interexchange services; and

"(D) shall not, in establishing any requirement under subparagraph (A), (B), or (C) establish different requirements—

"(i) for providers of two-way commercial mobile services that also are, or are affiliated with, providers of wireline telephone exchange service; and

"(ii) for providers of two-way commercial mobile services that are not, and are not affiliated with, providers of wireline telephone exchange service.

The regulations prescribed pursuant to this paragraph shall supersede any inconsistent requirements imposed by the Modification of Final Judgment (as such term is defined in section 106 of the Antitrust and Communications Reform Act of 1994). Nothing in this paragraph shall affect the Commission's authority to establish the terms and conditions under which providers of telephone exchange services provide access to the local exchange networks for commercial mobile services or interexchange services.".

(2) EFFECTIVE DATE CONFORMING AMENDMENT.—Section 6002(c)(2)(B) of the Omnibus Budget Reconciliation Act of 1993 is amended by striking "section 332(c)(6)" and inserting "paragraphs (6) and (7) of section 332(c)".

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

SEC. 201. REGULATION OF MANUFACTURING BY BELL OPERATING COMPANIES.

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

"SEC. 229. REGULATION OF MANUFACTURING BY BELL OPERATING COMPANIES.

"(a) GENERAL AUTHORITY.—Subject to the requirements of this section and the regulations prescribed thereunder, but notwithstanding any restriction or obligation imposed before the date of enactment of this section pursuant to the Modification of Final Judgment on the lines of business in which a Bell operating company may engage, a Bell operating company, through an affiliate of that company, may manufacture and provide telecommunications equipment and manufacture customer premises equipment.

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

"(c) COMMISSION REGULATION OF MANUFACTURING AFFILIATE.—

"(1) REGULATIONS REQUIRED.—The Commission shall prescribe regulations to ensure that Bell operating companies and their affiliates comply with the requirements of this section.

"(2) BOOKS, RECORDS, ACCOUNTS.—A manufacturing affiliate required by subsection (b) shall—

"(A) maintain books, records, and accounts that are separate from the books, records, and accounts of its affiliated Bell operating company and that identify all financial transactions between the manufacturing affiliate and its affiliated Bell operating company, and

"(B) even if such manufacturing affiliate is not a publicly held corporation, prepare financial statements which are in compliance with financial reporting requirements under the Federal securities laws for publicly held corporations, file such statements with the Commission, and make such statements available for public inspection.

"(3) IN-KIND BENEFITS TO AFFILIATE.—Consistent with the provisions of this section, neither a Bell operating company nor any of its nonmanufacturing affiliates shall perform sales, advertising, installation, production, or maintenance operations for a manufacturing affiliate, except that—

"(A) a Bell operating company and its nonmanufacturing affiliates may sell, advertise, install, and maintain telecommunications equipment and customer premises equipment after acquiring such equipment from their manufacturing affiliate; and

"(B) institutional advertising, of a type not related to specific telecommunications equipment, carried out by the Bell operating company or its affiliates, shall be permitted.

"(4) DOMESTIC MANUFACTURING REQUIRED.—

"(A) GENERAL RULE.—Except as otherwise provided in this paragraph, a manufacturing affiliate required by subsection (b) shall conduct all of its manufacturing within the United States and all component parts of customer premises equipment manufactured by such affiliate, and all component parts of telecommunications equipment manufactured by such affiliate, shall have been manufactured within the United States.

"(B) EXCEPTION.—(i) Such affiliate may use component parts manufactured outside the United States if—

"(I) such affiliate first makes a good faith effort to obtain equivalent component parts manufactured within the United States at reasonable prices, terms, and conditions; and

"(II) for the aggregate of telecommunications equipment and customer premises equipment manufactured and sold in the United States by such affiliate, the cost of the components manufactured outside the United States contained in all such equipment does not exceed 40 percent of the sales revenue derived in any calendar year from such equipment.

"(ii) Subparagraph (A) shall apply except to the extent that any of its provisions are determined to be inconsistent with any multilateral or bilateral agreement to which the United States is a party.

"(C) CERTIFICATION REQUIRED.—Any such affiliate that uses component parts manufactured outside the United States in the manufacture of telecommunications equipment and customer premises equipment within the United States shall—

"(i) certify to the Commission that a good faith effort was made to obtain equivalent parts manufactured within the United States at reasonable prices, terms, and conditions, which certification shall be filed on a quarterly basis with the Commission and list component parts, by type, manufactured outside the United States; and

"(ii) certify to the Commission on an annual basis that such affiliate complied with the requirements of subparagraph (B)(ii), as adjusted in accordance with subparagraph (G).

"(D) REMEDIES FOR FAILURES.—(i) If the Commission determines, after reviewing the

certification required in subparagraph (C)(i), that such affiliate failed to make the good faith effort required in subparagraph (B)(i) or, after reviewing the certification required in subparagraph (C)(ii), that such affiliate has exceeded the percentage specified in subparagraph (B)(ii), the Commission may impose penalties or forfeitures as provided for in title V of this Act.

"(ii) Any supplier claiming to be damaged because a manufacturing affiliate failed to make the good faith effort required in subparagraph (B)(i) may make complaint to the Commission as provided for in section 208 of this Act, or may bring suit for the recovery of actual damages for which such supplier claims such affiliate may be liable under the provisions of this Act in any district court of the United States of competent jurisdiction.

"(E) ANNUAL REPORT.—The Commission, in consultation with the Secretary of Commerce, shall, on an annual basis, determine the cost of component parts manufactured outside the United States contained in all telecommunications equipment and customer premises equipment sold in the United States as a percentage of the revenues from sales of such equipment in the previous calendar year.

"(F) USE OF INTELLECTUAL PROPERTY IN MANUFACTURE.—Notwithstanding subparagraph (A), a manufacturing affiliate may use intellectual property created outside the United States in the manufacture of telecommunications equipment and customer premises equipment in the United States. A component manufactured using such intellectual property shall not be treated for purposes of subparagraph (B)(ii) as a component manufactured outside the United States solely on the basis of the use of such intellectual property.

"(G) RESTRICTIONS ON COMMISSION AUTHORITY.—The Commission may not waive or alter the requirements of this paragraph, except that the Commission, on an annual basis, shall adjust the percentage specified in subparagraph (B)(ii) to the percentage determined by the Commission, in consultation with the Secretary of Commerce, pursuant to subparagraph (E).

"(5) INSULATION OF RATE PAYERS FROM MANUFACTURING AFFILIATE DEBT.—Any debt incurred by any such manufacturing affiliate may not be issued by its affiliated Bell operating company and such manufacturing affiliate shall be prohibited from incurring debt in a manner that would permit a creditor, on default, to have recourse to the assets of its affiliated Bell operating company.

"(6) RELATION TO OTHER AFFILIATES.—A manufacturing affiliate required by subsection (b) shall not be required to operate separately from the other affiliates of its affiliated Bell operating company, but if an affiliate of a Bell operating company becomes affiliated with a manufacturing entity, such affiliate shall be treated as a manufacturing affiliate of that Bell operating company (except for purposes of paragraph (3)) and shall comply with the requirements of this section.

"(7) AVAILABILITY OF EQUIPMENT TO OTHER CARRIERS.—A manufacturing affiliate required by subsection (b) shall make available, without discrimination or preference as to price, delivery, terms, or conditions, to any common carrier any telecommunications equipment that is used in the provision of telephone exchange service and that is manufactured by such affiliate only if such purchasing carrier—

"(A) does not manufacture telecommunications equipment, and does not have an affiliated telecommunications equipment manufacturing entity; or

"(B) agrees to make available, to the Bell operating company affiliated with such manufacturing affiliate or any common carrier affiliate of such Bell operating company, any telecommunications equipment that is used in the provision of telephone exchange service and that is manufactured by such purchasing carrier or by any entity or organization with which such purchasing carrier is affiliated.

"(8) SALES PRACTICES OF MANUFACTURING AFFILIATES.—

"(A) PROHIBITION OF DISCONTINUATION OF EQUIPMENT FOR WHICH THERE IS REASONABLE DEMAND.—A manufacturing affiliate required by subsection (b) shall not discontinue or restrict sales to a common carrier of any telecommunications equipment that is used in the provision of telephone exchange service and that such affiliate manufactures for sale as long as there is reasonable demand for the equipment by such carriers; except that such sales may be discontinued or restricted if such manufacturing affiliate demonstrates to the Commission that it is not making a profit, under a marginal cost standard implemented by the Commission by regulation, on the sale of such equipment.

"(B) DETERMINATIONS OF REASONABLE DEMAND.—Within 60 days after receipt of an application under subparagraph (A), the Commission shall reach a determination as to the existence of reasonable demand for purposes of such subparagraph. In making such determination the Commission shall consider—

"(i) whether the continued manufacture of the equipment will be profitable;

"(ii) whether the equipment is functionally or technologically obsolete;

"(iii) whether the components necessary to manufacture the equipment continue to be available;

"(iv) whether alternatives to the equipment are available in the market; and

"(v) such other factors as the Commission deems necessary and proper.

"(9) JOINT PLANNING OBLIGATIONS.—Each Bell operating company shall, consistent with the antitrust laws, (including title I of the Antitrust and Communications Reform Act of 1994), engage in joint network planning and design with other contiguous common carriers providing telephone exchange service, but agreement with such other carriers shall not be required as a prerequisite for the introduction or deployment of services pursuant to such joint network planning and design.

"(d) INFORMATION REQUIREMENTS.—

"(1) FILING OF INFORMATION ON PROTOCOLS AND TECHNICAL REQUIREMENTS.—Each Bell operating company shall, in accordance with regulations prescribed by the Commission, maintain and file with the Commission full and complete information with respect to the protocols and technical requirements for connection with and use of its telephone exchange service facilities. Each such company shall report promptly to the Commission any material changes or planned changes to such protocols and requirements, and the schedule for implementation of such changes or planned changes.

"(2) FILING AS PREREQUISITE TO DISCLOSURE TO AFFILIATE.—A Bell operating company shall not disclose to any of its affiliates any information required to be filed under paragraph (1) unless that information is filed promptly, as required by regulation by the Commission.

"(3) ACCESS BY COMPETITORS TO INFORMATION.—The Commission may prescribe such additional regulations under this subsection as may be necessary to ensure that manufacturers in competition with a Bell operating company's manufacturing affiliate have access to the information with respect to the protocols and technical requirements for connection with and use of its telephone exchange service facilities required for such competition that such company makes available to its manufacturing affiliate.

"(4) PLANNING INFORMATION.—Each Bell operating company shall provide, to contiguous common carriers providing telephone exchange service, timely information on the planned deployment of telecommunications equipment.

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

"(1) provide, to other manufacturers of telecommunications equipment and customer premises equipment that is functionally equivalent to equipment manufactured by the Bell operating company manufacturing affiliate, opportunities to sell such equipment to such Bell operating company which are comparable to the opportunities which such Company provides to its affiliates; and

"(2) not subsidize its manufacturing affiliate with revenues from telephone exchange service or telephone toll service.

"(f) COLLABORATION PERMITTED.—Nothing in this section (other than subsection (i)) shall be construed to limit or restrict the ability of a Bell operating company and its affiliates to engage in close collaboration with any manufacturer of customer premises equipment or telecommunications equipment during the design and development of hardware, software, or combinations thereof related to such equipment.

"(g) ACCESSIBILITY REQUIREMENTS.—

"(1) MANUFACTURING.—The Commission shall, within 1 year after the date of enactment of this section, prescribe such regulations as are necessary to ensure that telecommunications equipment and customer premises equipment designed, developed, and fabricated pursuant to the authority granted in this section shall be accessible and usable by individuals with disabilities, including individuals with functional limitations of hearing, vision, movement, manipulation, speech, and interpretation of information, unless the costs of making the equipment accessible and usable would result in an undue burden or an adverse competitive impact.

"(2) NETWORK SERVICES.—The Commission shall, within 1 year after the date of enactment of this section, prescribe such regulations as are necessary to ensure that advances in network services deployed by a Bell operating company shall be accessible and usable by individuals whose access might otherwise be impeded by a disability or functional limitation, unless the costs of making the services accessible and usable would result in an undue burden or adverse competitive impact. Such regulations shall seek to permit the use of both standard and special equipment and seek to minimize the need of individuals to acquire additional devices beyond those used by the general public to obtain such access.

"(3) COMPATIBILITY.—The regulations prescribed under paragraphs (1) and (2) shall require that whenever an undue burden or adverse competitive impact would result from the manufacturing or network services requirements in such paragraphs, the manufacturing affiliate that designs, develops, or fabricates the equipment or the Bell operating company that deploys the network service shall ensure that the equipment or network service in question is compatible with existing peripheral devices or specialized customer premises equipment commonly used by persons with disabilities to achieve access, unless doing so would result in an undue burden or adverse competitive impact.

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

"(A) UNDUE BURDEN.—The term 'undue burden' means significant difficulty or expense. In determining whether an activity would result in an undue burden, the following factors shall be considered:

"(i) the nature and cost of the activity;

"(ii) the impact on the operation of the facility involved in the manufacturing of the equipment or deployment of the network service;

"(iii) the financial resources of the manufacturing affiliate in the case of manufacturing of equipment, for as long as applicable regulatory rules prohibit cross-subsidization of equipment manufacturing with revenues from regulated telecommunications service or when the manufacturing activities are conducted in a separate subsidiary;

"(iv) the financial resources of the Bell operating company in the case of network services, or in the case of manufacturing of equipment if applicable regulatory rules permit cross-subsidization of equipment manufacturing with revenues from regulated telecommunications services and the manufacturing activities are not conducted in a separate subsidiary; and

"(v) the type of operation or operations of the manufacturing affiliate or Bell operating company as applicable.

"(B) ADVERSE COMPETITIVE IMPACT.—In determining whether the activity would result in an adverse competitive impact, the following factors shall be considered:

"(i) whether such activity would raise the cost of the equipment or network service in question beyond the level at which there would be sufficient consumer demand by the general population to make the equipment or network service profitable; and

"(ii) whether such activity would, with respect to the equipment or network service in question, put the manufacturing affiliate or Bell operating company, as applicable, at a competitive disadvantage in comparison with one or more providers of one or more competing products and services. This factor may only be considered so long as competing manufacturers and network service providers are not held to the same obligation with respect to access by persons with disabilities.

"(C) ACTIVITY.—For the purposes of this paragraph, the term 'activity' includes—

"(i) the research, design, development, deployment, and fabrication activities necessary to comply with the requirements of this section; and

"(ii) the acquisition of the related materials and equipment components.

"(5) EFFECTIVE DATE.—The regulations required by this subsection shall become effective 18 months after the date of enactment of this section.

"(h) PUBLIC NETWORK ENHANCEMENT.—A Bell operating company manufacturing affiliate shall, as a part of its overall research and development effort, establish a permanent program for manufacturing research and development of products and applications for the enhancement of the public switched telephone network and to promote public access to advanced telecommunications services. Such program shall focus its work substantially on developing technological advancements in public telephone network applications, telecommunication equipment and products, and access solutions to new services and technology, including access by (1) public institutions, including educational and health care institutions; and (2) people with disabilities and functional limitations. Notwithstanding the limitations in subsection (a), a Bell operating company and its affiliates may engage in such a program in conjunction with a Bell operating company not so affiliated or any of its affiliates. The existence or establishment of such a program that is jointly provided by manufacturing affiliates of Bell operating companies shall satisfy the requirements of this section as it pertains to all such affiliates of a Bell operating company.

"(i) RULEMAKING REQUIRED.—The Commission shall prescribe regulations to implement this section within 180 days after the date of enactment of this section.

"(j) ADMINISTRATION AND ENFORCEMENT AUTHORITY.—

"(1) COMMISSION REGULATORY AUTHORITY.—For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to any Bell operating company or any affiliate thereof as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier subject to this Act.

"(2) PRIVATE ACTIONS.—Any common carrier that provides telephone exchange service and that is injured by an act or omission of a Bell operating company or its manufacturing affiliate which violates the requirements of paragraph (7) or (8) of subsection (c), or the Commission's regulations implementing such paragraphs, may initiate an action in a district court of the United States to recover the full amount of damages sustained in consequence of any such violation and obtain such orders from the court as are necessary to terminate existing violations and to prevent future violations; or such regulated local telephone exchange carrier may seek relief from the Commission pursuant to sections 206 through 209.

"(k) EXISTING MANUFACTURING AUTHORITY.—Nothing in this section shall prohibit any Bell operating company from engaging, directly or through any affiliate, in any manufacturing activity in which any Bell operating company or affiliate was authorized to engage on the date of enactment of this section.

"(l) ANTITRUST LAWS.—Nothing in this section shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws (including title I of the Antitrust and Communications Reform Act of 1994).

"(m) DEFINITIONS.—As used in this section:

"(1) The term 'affiliate' means any organization or entity that, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership with a Bell operating company. The terms 'owns', 'owned', and 'ownership' mean an equity interest of more than 10 percent.

"(2) The term 'Bell operating company' means those companies listed in appendix A of the Modification of Final Judgment, and includes any successor or assign of any such company, but does not include any affiliate of any such company.

"(3) The term 'customer premises equipment' means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications.

"(4) The term 'manufacturing' has the same meaning as such term has under the Modification of Final Judgment.

"(5) The term 'manufacturing affiliate' means an affiliate of a Bell operating company established in accordance with subsection (b) of this section.

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

"(7) The term 'telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, by means of an electromagnetic transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission.

"(8) The term 'telecommunications equipment' means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades).

"(9) The term 'telecommunications service' means the offering for hire of telecommunications facilities, or of telecommunications by means of such facilities.".

SEC. 303. REGULATION OF ENTRY INTO ALARM MONITORING SERVICES.

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

"SEC. 229. REGULATION OF ENTRY INTO ALARM MONITORING SERVICES.

"(a) REGULATIONS REQUIRED.—The Commission shall prescribe regulations—

"(1) to establish such requirements, limitations, or conditions as are (A) necessary and appropriate in the public interest with respect to the provision of alarm monitoring services by Bell operating companies and their affiliates, and (B) effective at such time as a Bell operating company or any of its affiliates is authorized to provide alarm monitoring services;

"(2) to prohibit Bell operating companies and their affiliates, at that or any earlier time after the date of enactment of this section, from recording or using in any fashion the occurrence or the contents of calls received by providers of alarm monitoring services for the purposes of marketing such services on behalf of the Bell operating company, any of its affiliates, or any other entity; and

"(3) to establish procedures for the receipt and review of complaints concerning violations by such companies of such regulations, or of any other provision of this Act or the regulations thereunder, that result in material financial harm to a provider of alarm monitoring services.

"(b) EXPEDITED CONSIDERATION OF COMPLAINTS.—The procedures established under subsection (a)(3) shall ensure that the Commission will make a final determination with respect to any complaint described in such subsection within 120 days after receipt of the complaint. If the complaint contains an appropriate showing that the alleged violation occurred, as determined by the Commission in accordance with such regulations, the Commission shall, within 60 days after receipt of the complaint, issue a cease and desist order to prevent the Bell operating company and its affiliates from continuing to engage in such violation pending such final determination.

"(c) REMEDIES.—The Commission may use any remedy available under title V of this Act to terminate and punish violations described in subsection (a)(2). Such remedies may include, if the Commission determines that such violation was willful or repeated, ordering the Bell operating company to cease offering alarm monitoring services.

"(d) RULEMAKING SCHEDULE.—The Commission shall prescribe the regulations required by subsection (a)(2) within 180 days after the date of enactment of this section and shall

prescribe the regulations required by subsection (a)(1) and (a)(3) prior to the date on which any Bell operating company may commence providing alarm monitoring services pursuant to title I of the Antitrust and Communication Reform Act of 1994.

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

"(1) BELL OPERATING COMPANY.—The term 'Bell operating company' has the meaning provided in subparagraphs (A) or (B) of section 106(5) of the Antitrust and Communication Reform Act of 1994.

"(2) ALARM MONITORING SERVICES.—The term 'alarm monitoring services' has the meaning provided in section 106(2) of such Act.

"(3) AFFILIATE.—The term 'affiliate' means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, to own refers to owning an equity interest (or the equivalent thereof) of more than 10 percent.".

SEC. 203. REGULATION OF ELECTRONIC PUBLISHING.

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

"SEC. 231. REGULATION OF ELECTRONIC PUBLISHING.

"(a) IN GENERAL.—

"(1) PROHIBITION.—A Bell operating company and any affiliate shall not engage in the provision of electronic publishing that is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service.

"(2) PERMITTED ACTIVITIES OF SEPARATED AFFILIATE.—Nothing in this section shall prohibit a separated affiliate or electronic publishing joint venture from engaging in the provision of electronic publishing or any other lawful service in any area.

"(3) RULE OF CONSTRUCTION.—Nothing in this section shall prohibit a Bell operating company or affiliate from engaging in the provision of any lawful service other than electronic publishing in any area or from engaging in the provision of electronic publishing that is not disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service.

"(b) SEPARATED AFFILIATE OR ELECTRONIC PUBLISHING JOINT VENTURE REQUIREMENTS.—A separated affiliate or electronic publishing joint venture shall—

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

"(2) not incur debt in a manner that would permit a creditor upon default to have recourse to the assets of the Bell operating company;

"(3) prepare financial statements that are not consolidated with those of the Bell operating company or an affiliate, provided that consolidated statements may also be prepared;

"(4) file with the Commission annual reports in a form substantially equivalent to the Form 10-K required by regulations of the Securities and Exchange;

"(5) after 1 year from the effective date of this section, not hire—

"(A) as corporate officers, sales and marketing management personnel whose responsibilities at the separated affiliate or electronic publishing joint venture will include the geographic area where the Bell operating company provides basic telephone service;

"(B) network operations personnel whose responsibilities at the separated affiliate or electronic publishing joint venture would require dealing directly with the Bell operating company; or

"(C) any person who was employed by the Bell operating company during the year preceding their date of hire,

except that the requirements of this paragraph shall not apply to persons subject to a collective bargaining agreement that gives such persons rights to be employed by a separated affiliate or electronic publishing joint venture of the Bell operating company;

"(6) not provide any wireline telephone exchange service in any telephone exchange area where a Bell operating company with which it is under common ownership or control provides basic telephone exchange service except on a resale basis;

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

"(8) have performed annually by March 31, or any other date prescribed by the Commission, a compliance review—

"(A) that is conducted by an independent entity that is subject to professional, legal, and ethical obligations for the purpose of determining compliance during the preceding calendar year with any provision of this section that imposes a requirement on such separated affiliate or electronic publishing joint venture; and

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

"(9) within 90 days of receiving a review described in paragraph (8), file a report of any exceptions and corrective action with the Commission and allow any person to inspect and copy such report subject to reasonable safeguards to protect any proprietary information contained in such report from being used for purposes other than to enforce or pursue remedies under this section.

"(c) BELL OPERATING COMPANY REQUIREMENTS.—A Bell operating company under common ownership or control with a separated affiliate or electronic publishing joint venture shall—

"(1) not provide a separated affiliate any facilities, services, or basic telephone service information unless it makes such facilities, services, or information available to unaffiliated entities upon request and on the same terms and conditions;

"(2) carry out transactions with a separated affiliate in a manner equivalent to the manner that unrelated parties would carry out independent transactions and not based upon the affiliation;

"(3) carry out transactions with a separated affiliate, which involve the transfer of personnel, assets, or anything of value, pursuant to written contracts or tariffs that are filed with the Commission and made publicly available;

"(4) carry out transactions with a separated affiliate in a manner that is auditable in accordance with generally accepted auditing standards;

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

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

"(7) except for—

"(A) instances where Commission or State regulations permit in-arrears payment for tariffed telecommunications services; or

"(B) the investment by an affiliate of dividends or profits derived from a Bell operating company,

not provide debt or equity financing directly or indirectly to a separated affiliate;

"(8) *comply fully with all applicable Commission and State cost allocation and other accounting rules;*

"(9) have performed annually by March 31, or any other date prescribed by the Commission, a compliance review—

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

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

"(10) within 90 days of receiving a review described in paragraph (9), file a report of any exceptions and corrective action with the Commission and allow any person to inspect and copy such report subject to reasonable safeguards to protect any proprietary information contained in such report from being used for purposes other than to enforce or pursue remedies under this section;

"(11) if it provides facilities or services for telecommunication, transmission, billing and collection, or physical collocation to any electronic publisher, including a separated affiliate, for use with or in connection with the provision of electronic publishing that is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service, provide to all other electronic publishers the same type of facilities and services on request, on the same terms and conditions or as required by the Commission or a State, and unbundled and individually tariffed to the smallest extent that is technically feasible and economically reasonable to provide;

"(12) provide network access and interconnections for basic telephone service to electronic publishers at any technically feasible and economically reasonable point within the Bell operating company's network and at just and reasonable rates that are tariffed (so long as rates for such services are subject to regulation) and that are not higher on a per-unit basis than those charged for such services to any other electronic publisher or any separated affiliate engaged in electronic publishing;

"(13) if prices for network access and interconnection for basic telephone service are no longer subject to regulation, provide electronic publishers such services on the same terms and conditions as a separated affiliate receives such services;

"(14) if any basic telephone service used by electronic publishers ceases to require a tariff, provide electronic publishers with such service on the same terms and conditions as a separated affiliate receives such service;

"(15) provide reasonable advance notification at the same time and on the same terms to all affected electronic publishers of information if such information is within any one or more of the following categories:

"(A) such information is necessary for the transmission or routing of information by an interconnected electronic publisher;

"(B) such information is necessary to ensure the interoperability of an electronic publisher's and the Bell operating company's networks; or

"(C) such information concerns changes in basic telephone service network design and technical standards which may affect the provision of electronic publishing;

"(16) not directly or indirectly provide anything of monetary value to a separated affiliate unless in exchange for consideration at least equal to the greater of its net book cost or fair market value, except the invest-

ment by an affiliate of dividends or profits derived from a Bell operating company;

"(17) not discriminate in the presentation or provision of any gateway for electronic publishing services or any electronic directory of information services, which is provided over such Bell operating company's basic telephone service;

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

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

"(20) not perform hiring or training of personnel performed on behalf of a separated affiliate;

"(21) not perform the purchasing, installation, or maintenance of equipment on behalf of a separated affiliate, except for telephone service that it provides under tariff or contract subject to the provisions of this section; and

"(22) not perform research and development on behalf of a separated affiliate.

"(d) CUSTOMER PROPRIETARY NETWORK INFORMATION.—Consistent with section 232 of this Act, a Bell operating company or any affiliate shall not provide to any electronic publisher, including a separated affiliate or electronic publishing joint venture, customer proprietary network information for use with or in connection with the provision of electronic publishing that is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service that is not made available by the Bell operating company or affiliate to all electronic publishers on the same terms and conditions.

"(e) COMPLIANCE WITH SAFEGUARDS.—No Bell operating company or affiliate thereof (including a separated affiliate) shall act in concert with another Bell operating company or any other entity in order to knowingly and willfully violate or evade the requirements of this section.

"(f) TELEPHONE OPERATING COMPANY DIVIDENDS.—Nothing in this section shall prohibit an affiliate from investing dividends derived from a Bell operating company in its separated affiliate, and subsections (i) and (j) of this section shall not apply to any such investment.

"(g) JOINT MARKETING.—Except as provided in subsection (h)—

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

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

"(h) PERMISSIBLE JOINT ACTIVITIES.—

"(1) JOINT TELEMARKETING.—A Bell operating company may provide inbound telemarketing or referral services related to the provision of electronic publishing for a separated affiliate, electronic publishing joint venture, affiliate, or unaffiliated electronic publisher, provided that if such services are provided to a separated affiliate, electronic publishing joint venture, or affiliate, such services shall be made available to all electronic publishers on request, on nondiscriminatory terms, at compensatory prices, and subject to regulations of the Commission to ensure that the Bell operating company's method of providing telemarketing or referral and its price structure do not competitively disadvantage any electronic publishers regardless of size, including those which do not use the Bell operating company's telemarketing services.

"(2) TEAMING ARRANGEMENTS.—A Bell operating company may engage in nondiscriminatory teaming or business arrangements to engage in electronic publishing with any separated affiliate or with any other electronic publisher provided that the Bell operating company only provides facilities, services, and basic telephone service information as authorized by this section and provided that the Bell operating company does not own such teaming or business arrangement.

"(3) ELECTRONIC PUBLISHING JOINT VENTURES.—A Bell operating company or affiliate may participate on a nonexclusive basis in electronic publishing joint ventures with entities that are not any Bell operating company, affiliate, or separated affiliate to provide electronic publishing services, provided that the Bell operating company or affiliate has not more than a 50 percent direct or indirect equity interest (or the equivalent thereof) or the right to more than 50 percent of the gross revenues under a revenue sharing or royalty agreement in any electronic publishing joint venture. Officers and employees of a Bell operating company or affiliate participating in an electronic publishing joint venture may not have more than 50 percent of the voting control over the electronic publishing joint venture. In the case of joint ventures with small, local electronic publishers, the Commission for good cause shown may authorize the Bell operating company or affiliate to have a larger equity interest, revenue share, or voting control but not to exceed 80 percent. A Bell operating company participating in an electronic publishing joint venture may provide promotion, marketing, sales, or advertising personnel and services to such joint venture.

"(i) TRANSACTIONS RELATED TO THE PROVISION OF ELECTRONIC PUBLISHING BETWEEN A TELEPHONE OPERATING COMPANY AND ANY AFFILIATE.—

"(1) RECORDS OF TRANSACTIONS.—Any provision of facilities, services, or basic telephone service information, or any transfer of assets, personnel, or anything of commercial or competitive value, from a Bell operating company to any affiliate related to the provision of electronic publishing shall be—

"(A) recorded in the books and records of each entity;

"(B) auditable in accordance with generally accepted auditing standards; and

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

"(2) VALUATION OF TRANSFERS.—Any transfer of assets directly related to the provision of electronic publishing from a Bell operating company to an affiliate shall be valued at the greater of net book cost or fair market value. Any transfer of assets related to the provision of electronic publishing from an affiliate to the Bell operating company shall be valued at the lesser of net book cost or fair market value.

"(3) PROHIBITION OF EVASIONS.—A Bell operating company shall not provide directly or indirectly to a separated affiliate any facilities, services, or basic telephone service information related to the provision of electronic publishing that are not made available to unaffiliated companies on the same terms and conditions.

"(j) TRANSACTIONS RELATED TO THE PROVISION OF ELECTRONIC PUBLISHING BETWEEN AN AFFILIATE AND A SEPARATED AFFILIATE.—

"(1) RECORDS OF TRANSACTIONS.—Any facilities, services, or basic telephone service information provided or any assets, personnel, or anything of commercial or competitive value transferred, from a Bell operating company to any affiliate as described in subsection (i) and then provided or transferred to a separated affiliate shall be—

"(A) recorded in the books and records of each entity;

"(B) auditable in accordance with generally accepted auditing standards; and

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

"(2) VALUATION OF TRANSFERS.—Any transfer of assets directly related to the provision of electronic publishing from a Bell operating company to any affiliate as described in subsection (i) and then transferred to a separated affiliate shall be valued at the greater of net book cost or fair market value. Any transfer of assets related to the provision of electronic publishing from a separated affiliate to any affiliate and then transferred to the Bell operating company as described in subsection (i) shall be valued at the lesser of net book cost or fair market value.

"(3) PROHIBITION OF EVASIONS.—An affiliate shall not provide directly or indirectly to a separated affiliate any facilities, services, or basic telephone service information related to the provision of electronic publishing that are not made available to unaffiliated companies on the same terms and conditions.

"(k) OTHER ELECTRONIC PUBLISHERS.—Except as provided in subsection (h)(3)—

"(1) A Bell operating company shall not have any officers, employees, property, or facilities in common with any entity whose principal business is publishing of which a part is electronic publishing.

"(2) No officer or employee of a Bell operating company shall serve as a director of any entity whose principal business is publishing of which a part is electronic publishing.

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

"(4) A Bell operating company shall not carry out—

"(A) any marketing or sales for any entity that engages in electronic publishing; or

"(B) any hiring of personnel, purchasing, or production,

for any entity that engages in electronic publishing.

"(5) The Bell operating company shall not provide any facilities, services, or basic telephone service information to any entity that engages in electronic publishing, for use with or in connection with the provision of electronic publishing that is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service, unless equivalent facilities, services, or information are made available on equivalent terms and conditions to all.

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

"(m) SUNSET.—The provisions of this section shall not apply to conduct occurring after June 30, 2000.

"(n) PRIVATE RIGHT OF ACTION.—

"(1) DAMAGES.—Any person claiming that any act or practice of any Bell operating company, affiliate, or separated affiliate constitutes a violation of this section may file a complaint with the Commission or bring suit as provided in section 207 of this Act, and such Bell operating company, affiliate, or separated affiliate shall be liable as provided in section 206 of this Act; except that damages may not be awarded for a violation that is discovered by a compliance review as required by subsection (b)(8) or (c)(9) of this section and corrected within 90 days.

"(2) CEASE AND DESIST ORDERS.—In addition to the provisions of paragraph (1), any person claiming that any act or practice of any Bell

operating company, affiliate, or separated affiliate constitutes a violation of this section may make application to the Commission for an order to cease and desist such violation or may make application in any district court of the United States of competent jurisdiction for an order enjoining such acts or practices or for an order compelling compliance with such requirement.

"(o) ANTITRUST LAWS.—Nothing in this section shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws (including title I of the Antitrust and Communications Reform Act of 1994).

"(p) EQUAL EMPLOYMENT OPPORTUNITIES.—Any Bell operating company, and any affiliate or joint venture or other business partner of a Bell operating company, that is engaged in the provision of electronic publishing shall be subject to the provisions of section 634 of this Act, except that the Commission shall prescribe by regulation appropriate job classifications in lieu of the job classifications in subsection (d)(3)(A) of such section.

"(q) DEFINITIONS.—As used in this section—

"(1) The term 'affiliate' means any entity that, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control with, a Bell operating company. Such term shall not include a separated affiliate.

"(2) The term 'basic telephone service' means any wireline telephone exchange service, or wireline telephone exchange facility, provided by a Bell operating company in a telephone exchange area, except—

"(A) a competitive wireline telephone exchange service provided in a telephone exchange area where another entity provides a wireline telephone exchange service that was provided on January 1, 1984, and

"(B) a commercial mobile service provided by an affiliate that is required by the Commission to be a corporate entity separate from the Bell operating company.

"(3) The term 'basic telephone service information' means network and customer information of a Bell operating company and other information acquired by a Bell operating company as a result of its engaging in the provision of basic telephone service.

"(4) The term 'control' has the meaning that it has in 17 C.F.R. 240.12b-2, the regulations promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or any successor provision to such section.

"(5)(A) The term 'electronic publishing' means the dissemination, provision, publication, or sale to an unaffiliated entity or person, using a Bell operating company's basic telephone service, of—

"(i) news,

"(ii) entertainment (other than interactive games),

"(iii) business, financial, legal, consumer, or credit material;

"(iv) editorials;

"(v) columns;

"(vi) sports reporting;

"(vii) features;

"(viii) advertising;

"(ix) photos or images;

"(x) archival or research material;

"(xi) legal notices or public records;

"(xii) scientific, educational, instructional, technical, professional, trade, or other literary materials; or

"(xiii) other like or similar information.

"(B) The term 'electronic publishing' shall not include the following network services:

"(i) Information access, as that term is defined by the Modification of Final Judgment.

"(ii) The transmission of information as a common carrier.

"(iii) The transmission of information as part of a gateway to an information service that does not involve the generation or alteration of the content of information, including data transmission, address translation, protocol conversion, billing management, introductory information content, and navigational systems that enable users to access electronic publishing services, which do not affect the presentation of such electronic publishing services to users.

"(iv) Voice storage and retrieval services, including voice messaging and electronic mail services.

"(v) Level 2 gateway services as those services are defined by the Commission's Second Report and Order, Recommendation to Congress and Second Further Notice of Proposed Rulemaking in CC Docket No. 87-266 dated August 14, 1992.

"(vi) Data processing services that do not involve the generation or alteration of the content of information.

"(vii) Transaction processing systems that do not involve the generation or alteration of the content of information.

"(viii) Electronic billing or advertising of a Bell operating company's regulated telecommunications services.

"(ix) Language translation.

"(x) Conversion of data from one format to another.

"(xi) The provision of information necessary for the management, control, or operation of a telephone company telecommunications system.

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

"(xiii) Caller identification services.

"(xiv) Repair and provisioning databases for telephone company operations.

"(xv) Credit card and billing validation for telephone company operations.

"(xvi) 911-E and other emergency assistance databases.

"(xvii) Any other network service of a type that is like or similar to these network services and that does not involve the generation or alteration of the content of information.

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

"(C) The term 'electronic publishing' also shall not include—

"(i) full motion video entertainment on demand; and

"(ii) video programming as defined in section 602 of the Communications Act of 1934.

"(6) The term 'electronic publishing joint venture' means a joint venture owned by a Bell operating company or affiliate that engages in the provision of electronic publishing which is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service.

"(7) The term 'entity' means any organization, and includes corporations, partnerships, sole proprietorships, associations, and joint ventures.

"(8) The term 'inbound telemarketing' means the marketing of property, goods, or services by telephone to a customer or potential customer who initiated the call.

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

"(10) The term 'separated affiliate' means a corporation under common ownership or control with a Bell operating company that does not own or control a Bell operating company and is not owned or controlled by a Bell operating company and that engages in the provision of electronic publishing which is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service.

"(11) The term 'Bell operating company' means the corporations subject to the Modification of Final Judgment and listed in Appendix A thereof, or any entity owned or controlled by such corporation, or any successor or assign of such corporation, but does not include an electronic publishing joint venture owned by such corporation or entity.".

SEC. 204. PRIVACY OF CUSTOMER INFORMATION.

(a) PRIVACY OF CUSTOMER PROPRIETARY NETWORK INFORMATION.—

(1) AMENDMENT.—Title II of the Communications Act of 1934 is amended by adding at the end the following new section:

"SEC. 232. PRIVACY OF CUSTOMER PROPRIETARY NETWORK INFORMATION.

"(a) DUTY TO PROVIDE SUBSCRIBER LIST INFORMATION.—Notwithstanding subsections (b), (c), and (d), a carrier that provides subscriber list information to any affiliated or unaffiliated service provider or person shall provide subscriber list information on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person upon request.

"(b) PRIVACY REQUIREMENTS FOR COMMON CARRIERS.—A carrier—

"(1) shall not, except as required by law or with the approval of the customer to which the information relates—

"(A) use customer proprietary network information in the provision of any service except to the extent necessary (i) in the provision of common carrier communications services, (ii) in the provision of a service necessary to or used in the provision of common carrier communications services, including the publishing of directories, or (iii) to continue to provide a particular information service that the carrier provided as of March 15, 1994, to persons who were customers of such service on that date;

"(B) use customer proprietary network information in the identification or solicitation of potential customers for any service other than the service from which such information is derived;

"(C) use customer proprietary network information in the provision of customer premises equipment; or

"(D) disclose customer proprietary network information to any person except to the extent necessary to permit such person to provide services or products that are used in and necessary to the provision by such carrier of the services described in subparagraph (A);

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

"(3) shall, whenever such carrier provides any aggregate information, notify the Commission of the availability of such aggregate information and shall provide such aggregate information on reasonable terms and conditions to any other service or equipment provider upon reasonable request therefor; and

"(4) except for disclosures permitted by paragraph (1)(D), shall not unreasonably discriminate between affiliated and unaffiliated service or equipment providers in providing access to, or in the use and disclosure of, individual and aggregate information made available consistent with this subsection.

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

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

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

"(3) to protect the rights or property of the carrier;

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

"(5) to provide any inbound telemarketing, referral, or administrative services to the customer for the duration of the call if such call was initiated by the customer and the customer approves of the use of such information to provide such service.

"(d) EXEMPTION PERMITTED.—The Commission may, by rule, exempt from the requirements of subsection (b) carriers that have, together with any affiliated carriers, in the aggregate nationwide, fewer than 500,000 access lines installed if the Commission determines that such exemption is in the public interest or if compliance with the requirements would impose an undue economic burden on the carrier.

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

"(f) DEFINITION OF AGGREGATE INFORMATION.— For purposes of this section, the term 'aggregate information' means collective data that relates to a group or category of services or customers, from which individual customer identities and characteristics have been removed.".

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

"(gg) 'Customer proprietary network information' means—

"(1) information which relates to the quantity, technical configuration, type, destination, and amount of use of telephone exchange service or telephone toll service subscribed to by any customer of a carrier, and is made available to the carrier by the customer solely by virtue of the carrier-customer relationship;

"(2) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier; and

"(3) such other information concerning the customer as is available to the local exchange carrier by virtue of the customer's use of the carrier's telephone exchange service or interexchange telephone services, and specified as within the definition of such term by such rules as the Commission shall prescribe consistent with the public interest; except that such term does not include subscriber list information.

"(hh) 'Subscriber list information' means any information—

"(1) identifying the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses, or primary advertising classifications, or any combination of such listed names, numbers, addresses, or classifications; and

"(2) that the carrier or an affiliate has published or accepted for future publication.".

(b) IMPACT OF CONVERGING COMMUNICATIONS TECHNOLOGIES ON CONSUMER PRIVACY.—

(1) PROCEEDING REQUIRED.—Within one year after the date of enactment of this Act, the Commission shall commence a proceeding—

(A) to examine the impact of the integration into interconnected communications networks of wireless telephone, cable, satellite, and other technologies on the privacy rights and remedies of the consumers of those technologies;

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

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

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

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

(2) SUBJECTS FOR EXAMINATION.—In conducting the examination required by paragraph (1), the Commission shall determine whether consumers are able, and, if not, the methods by which consumers may be enabled—

(A) to have knowledge that consumer information is being collected about them through their utilization of various communications technologies;

(B) to have notice that such information could be used, or is intended to be used, by the entity collecting the data for reasons unrelated to the original communications, or that such information could be sold (or is intended to be sold) to other companies or entities; and

(C) to stop the reuse or sale of that information.

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

(A) complete any rulemaking required to revise Commission regulations to correct defects in such regulations identified pursuant to paragraph (1); and

(B) submit to the Congress a report containing the recommendations required by paragraph (1)(C).

SEC. 205. TELEMESSAGING SERVICES.

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

"SEC. 233. TELEMESSAGING SERVICES.

"(a) NONDISCRIMINATION.—A common carrier engaged in the provision of telemessaging services shall—

"(1) provide nonaffiliated entities, upon reasonable request, with the network services it provides to its own telemessaging operations, on nondiscriminatory terms and conditions; and

"(2) not subsidize its telemessaging services with revenues from telephone exchange service.

"(b) EXPEDITED CONSIDERATION OF COMPLAINTS.—The Commission shall establish procedures for the receipt and review of complaints concerning violations of subsection (a) or the regulations thereunder that result in material financial harm to a provider of telemessaging service. Such procedures shall ensure that the Commission will make a final determination with respect to any such complaint within 120 days after receipt of the complaint. If the complaint contains an appropriate showing that the alleged violation occurred, as determined by the Commission in accordance with such regulations, the Commission shall, within 60 days after receipt of the complaint, order the common carrier and its affiliates to cease engaging in such violation pending such final determination.

"(c) DEFINITIONS.—As used in this section, the term 'telemessaging services' means voice mail and voice storage and retrieval services provided over telephone lines for telemessaging customers and any live operator services used to answer, record, transcribe, and relay messages (other than telecommunications relay services) from incoming telephone calls on behalf of the telemessaging customers (other than any service incidental to directory assistance)."

SEC. 206. ENHANCED SERVICES SAFEGUARDS.

Within 60 days after the date of the enactment of this Act, the Commission shall initiate a proceeding to reconsider its decision in the Report and Order In the Matter of Computer III Remand Proceedings, CC Docket No. 90-623, released December 20, 1993, relieving the Bell operating companies of the obligation to provide enhanced services through fully separate affiliates. Within 180 days after the date of the enactment of this Act, the Commission shall, to the extent it determines necessary or appropriate in the public interest, adopt regulations prescribing the structural or nonstructural safeguards, or both, with which local exchange carriers shall comply when providing enhanced services.

TITLE III—FEDERAL COMMUNICATIONS COMMISSION RESOURCES

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

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

(b) EFFECT ON FEES.—For purposes of section 9(b)(2) of the Communications Act of 1934 (47 U.S.C 159(b)(2)), additional amounts appropriated pursuant to subsection (a) shall be construed to be changes in the amounts appropriated for the performance of activities described in section 9(a) of such Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, I yield 10 minutes to the gentleman from Michigan [Mr. DINGELL], and, Mr. Speaker, I ask unanimous consent that the gentleman from Michigan may control that time and yield blocks of that time to other Members.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FISH. Mr. Speaker, I yield 10 minutes of my time to the gentleman from California [Mr. MOORHEAD], and I ask unanimous consent that the gentleman from California be permitted to yield blocks of such time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

(Mr. BROOKS asked and was given permission to revise and extend his remarks.)

Mr. BROOKS. Mr. Speaker, I am delighted to call up H.R. 3626, landmark telecommunications legislation, standing side-by-side with my good friend Chairman JOHN DINGELL. It is beyond understatement to say that bringing up a unified version of this type of leg-

islation under suspension of the rules was not an easy achievement. As everyone in this Chamber well knows, both of us had originally approached the process from almost diametrically opposed philosophical points of view about the proper role of antitrust and regulatory oversight.

But during the past year and a half, we were able—working together—to fashion a bill that blended the strength and flexibility of fundamental antitrust principles with the need for public interest regulatory oversight. The result, I believe, is a delicate yet durable balance to ensure well into the next century a vibrant telecommunications industry, which must remain a strategic asset in this Nation's world economic position.

This is a far cry from last Congress when there was a fragmented policy orientation in the courts, throughout the enforcement agencies and, yes, even in the Halls of Congress. As we stand here today, the naysayers all across this fine city are in profound disbelief. Where once there was immovable jurisdictional gridlock, we are now moving with the momentum of a bipartisan consensus regarding this vital sector of the economy, perhaps for the first time in 60 years.

However, let us not forget for a moment where we were even as recently as the beginning of the 102d Congress. At that time, piecemeal, fragmented—and frankly, one-sided—solutions were being offered up as legislation for various interests in the telecommunications industry. If ever there was a prescription for disaster for this highly strategic U.S. industry, it was to follow the path of such narrow-sided proposals. I came to the decision that a comprehensive approach to maintaining a competitive and diverse industry was needed and that Congress must take responsibility for doing so.

In doing so, I cautioned that my decision to move a comprehensive piece of legislation was in no way to be construed as a referendum on the handling of the AT&T consent decree case by Judge Harold Greene. It was my view that Judge Greene had performed splendidly in this function, but that events—both in the private sector as well as in the Congress—might well short circuit his attempt to keep a unified view of competition as the central determinant in decisionmaking.

Moreover, as private business decisions continue to push the waiver process to the point of an overflowing court docket, there appeared a real possibility that delay in adjudicating these requests might become exacerbated to the detriment of all parties in their business planning. For all these reasons, I decided that it was essential that we move the forum from courtroom into the enforcement and regulatory agencies, while not abandoning the organizing principles behind the decree.

Thus, as I approached the legislation both in the last Congress and in this Congress, the two principles I held as irreducible were that, at the end of the day, the Department of Justice must have an independent role in reviewing Bell entry into now-prohibited sectors of the market; and that in reviewing such entry, the MFJ's antitrust entry test, the so-called 8(c) standard, must be applied. Finally, I insisted on an unambiguous antitrust savings clause so that even after entry by the Bells into long-distance, manufacturing or information services, the Department would have the full authority to pursue antitrust actions just as it would against any other industry where anticompetitiveness abuses might occur. I am grateful that these bedrock principles appear in the version of H.R. 3626 now before the House, and I give great credit to my good friend, Chairman JOHN DINGELL for recognizing the value of antitrust in this historic effort even as he successfully made his own case to me that public interest determinations should also have an important and complementary role in the process.

There are many others who made achievement possible today. I want to especially commend the ranking member of my committee, Congressman HAMILTON FISH, for his excellent work throughout the entire process. In addition, the unflagged efforts of Congressman MIKE SYNAR, RICK BOUCHER, and JOHN BRYANT, to name just a few, helped build support for a reasonable and politically viable legislative product that could be supported in our respective committees and on the floor.

Chairman DINGELL and I were both determined to have this legislation come before the full House before the July 4th recess so that the other body would have the time and the inclination to act. We are hopeful that they will, and that the conference report can be sent to the President's desk for signature before Congress adjourns in October

Mr. Speaker, I reserve the balance of my time.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

(Mr. FISH asked and was given permission to revise and extend his remarks.)

Mr. FISH. Mr. Speaker, I rise in support of the Antitrust and Communications Reform Act of 1994, H.R. 3626. This legislation represents the most sweeping communications reform legislation to be considered in this House in 60 years. It will establish the ground rules for telecommunications policy in our Nation as we proceed into the 21st century. If enacted, this measure will have much to say about the future health of the American economy, America's international competitiveness and expanded job opportunities for American workers.

This legislation establishes a statutory framework under which the seven regional Bell telephone companies and their affiliates would be permitted to provide certain long distance services and engage in the manufacture of telecommunications equipment. The Bell operating companies are currently prohibited from entering these lines of business under the terms of the antitrust consent decree—the modification of final judgment or MFJ—which governed the breakup of the then-unified AT&T Bell system. That consent decree was entered into by AT&T and the Department of Justice in 1982 and became effective on January 1, 1984.

Thus, H.R. 3626 would supersede the MFJ and establish a new policy framework under which the Federal Communications Commission and the Justice Department would administer local telephone company business activities. Under its terms, the Bell operating companies could apply immediately upon enactment for permission to enter into manufacturing and would be permitted to engage in manufacturing within a year after the date of enactment. Simflarly, the Bell companies can apply immediately after enactment to both the FCC and the Justice Department to be allowed to provide long distance services. The Bells may submit as many applications—broad or narrow in scope—as they choose.

The bill does not include general provisions concerning Bell company involvement in information services, since those MFJ-based restrictions were lifted by the courts in 1991. *U.S.* v. *Western Electric Co., et. al.*, 900 F.2d 283 (D.C. Cir., 1990), cert. den. 111 S. Ct. 283 (1990); *U.S.* v. *Western Electric Co.*, 767 F. Supp. (D.D.C., 1991). However, this legislation does include provisions governing Bell entry into alarm monitoring services, permitting Bell entry into that business 5½ years after the date of enactment. Similarly, electronic publishing—which is also a subset of information services—is treated in title II of this legislation. Those provisions would incorporate into law the terms of agreements made between the regional Bell operating companies and the representatives of the newspaper publishers.

As of the date of enactment, the Bells may apply to enter into the long distance business. (§101(a)(1)(B); §101(a)(2)(A).) Within 10 days after receipt, the applications must be published in the FEDERAL REGISTER. (§101(a)(4).) Not later than 45 days after publication, interested persons may submit comments to either or both agencies. (§101(b)(1).) Consultation between the two agencies regarding an application is required. (§101(b)(2).) The agencies must issue written determinations on the applications within 180 days after receipt. (§101(b)(3)(A).) In deciding on the merits of the application, the Justice Department will apply the same competitive standard that is contained in section VIII(C) of the MFJ, that is "no substantial possibility that such company or its affiliates could use monopoly power to impede competition in the market such company seeks to enter." (§101(b)(3)(D)(i).) The FCC will apply the "public interest, convenience and necessity" test contained in the

Communications Act. (§101(b)(3)(D)(ii).) Their determinations are to be based on the "preponderance of the evidence". (§101(b)(3)(B).) Both agencies must approve an application for it to be finally approved. (§101(b)(6).)

Not later than 45 days after the final determination (that is final agency action) is published, "any person who would be threatened with loss or damage as a result of the determination" may bring an action for judicial review in the U.S. Court of Appeals for the District of Columbia to challenge the agencies' approval. (§101(c)(1).) This standing provision is patterned directly after section 16 of the Clayton Act. Under the Federal antitrust laws, actual injury or threatened loss or damage must be shown before persons can successfully gain access to a Federal court to challenge a particular action as anticompetitive. Thus, this is intended to be an exacting standing provision and not all interested persons would have standing to challenge the agencies' determination. under this provision, court challenges are reserved for those that can show a genuine likelihood of injury—threatened loss or damage. This provision is not intended to encourage what could be obstructionist or strategic litigation.

Unlike the bill (H.R. 5096) sponsored by Congressman BROOKS in the 102d Congress, there is no de novo trial on the merits of an agency determination. Instead, there will be an appellate review based on the standard contained in the Administrative Procedure Act, 5 U.S.C. (§706.) It should be further emphasized that determinations made by Justice and the FCC under section 101(b)(3) are to be considered finally agency decisions in the administrative law meaning of that term. (The use of the term "final" in section 101(b)(5) should not be taken to mean "final agency action" for administrative law purposes. Rather, it means that if no civil action is filed under subsection (c), these determinations are no longer subject to appeal or review.) Bell entry into the authorized service would be lawful while the determination is the subject of an appeal under section 101(c). A Bell operating company can continue to provide this service until such time as one or both of the approvals is vacated or reversed as a result of judicial review. (§101(b)(6)(ii).) Of course, a party could seek a preliminary injunction under the normal Federal civil rules, seeking to enjoin the provision of the authorized services pending the outcome of the judicial review action.

Generally speaking, before the Bell operating companies can enter into the long distance business, they must follow the application procedure set down in section 101 of the bill. There are, however, some significant exceptions to this general requirement. For example, section 101(b)(3)(D)(iii) directs Justice and the FCC to jointly prescribe regulations establishing procedures for the expedited determination and approval of applications for proposed long-distance services that are incidental to the provisions of another, already lawful service. These incidental telecommunications services are in addition to those specified and authorized under section 102(c) of this bill.

Also exempt from the applicant requirement is any activity authorized by an order entered by the U.S. District Court for the District of Columbia under section VII or section VIII(C) of the Modification of Final Judgment prior to the date of enactment, or any waiver request pending on the date of enactment and subsequently approved by the District Court. §102(b)(1).

Further, the Bell companies are not required to apply seeking prior Federal authorization to offer intrastate long distance services—services provided within the boundaries of a single state. (§102(b)(2)(A).) So, the Bell companies would seek to receive State public utility—or public service—commission approval for providing intrastate interexchange telecommunications services. In doing so, they would be made subject to FCC and State regulations which require it to charge itself an access fee in the same manner it charges long-distance companies seeking access to the local exchanges. (§102(b)(2)(D).) However, under the terms of subsection 102(b)(2)(B), the Department of Justice would be given 90 days notice by a Bell company of its intent to provide such intrastate long-distance telecommunications services. The Justice Department would then have the option to request a preliminary injunction in a U.S. district court within those 90 days, with respect to such services if it believes a Bell entry would be anticompetitive. (§102(b)(2)(C).) If the Department brings no such civil action, or fails to obtain a preliminary injunction from the district court, it is fully lawful for the Bell company to begin providing those State-authorized services.

From the enactment of the Communications Act in 1934—until the AT&T consent decree took effect on January 1, 1984—all long-distance services within the States were regulated under the jurisdiction of the various state public utilities commissions [PUC's]. So, section 102(b)(2) of H.R. 3626 merely would return to the States their authority over all long-distance services delivered within their States. It should be understood that the States currently regulate long-distance services provided by the Bell companies within each LATA (that is Local Access Transport Area). Every State has an agency that regulates public telephone companies. In my own State of New York it is known as the New York State Public Service Commission. They issue the "certificates of convenience and necessity" that authorize the local exchange companies and long-distance carriers to do business. They regulate the rates charged for local and interexchange telephone service. They make the decisions on the tariffs filed regarding new services to be offered or the abandonment of any service or facility.

It should be emphasized that this legislation directs the States to take "into account the potential effects of such approval or authorization on competition and the public interest". (§102(b)(2)(A).) Of course, as noted earlier, the Justice Department would give 90 days to review the State's decision and seek an injunction if necessary. Again, if no injunction is sought, or if the request for an injunction is denied by the district court, then the Bell company may offer these services.

Also, the Bell companies would not be required to seek Federal pre-approval for long distance services that are provided through so-called resale services. (§102(b)(3).) That is, long-distance services which are purchased from another entity. This exception would apply only to services purchased from a nonaffiliate of the Bell company and only in those States where "1+ dialing" has been ordered. (§102(b)(3)(B).) As with intrastate long distance, the Department of Justice would have 90 days to review the competitive impact of Bell company resale services and the opportunity to seek an injunction when it determines that such entry would, in fact, be anticompetitive. (§102(b)(3)(D).)

Another major exception to the overall general rule requiring the Bell companies to apply to DOJ and FCC for permission, has to do with incidental services. Section 102(c) of the bill allows the Bell operating companies at any time after the date of enactment to provide interexchange telecommunications services which are deemed to be incidental to an otherwise lawful activity. So, for example, the bill identifies a number of activities to be exempt incidental services including, cable services and the distribution of cable programming, telephone service provided through cable companies outside of a Bell service area, interactive services, cellular telephone services, the transmission and retrieval of certain computer information, and the transmission of certain telephone network signaling information. (§102(c)(1)–(6).) As mentioned earlier, the bill requires the Justice Department and the FCC within 6 months of the date of enactment to establish procedures for the expedited consideration of applications by the Bell companies to provide other incidental long distance services. (§101(b)(3)(D)(iii).)

The bill generally permits the regional Bell companies and their operating affiliates to manufacture equipment, beginning a year after enactment, unless the Justice Department acts to stop them. (§103.) This bill creates a 1-year waiting period, during which the Department would review the company's plans and determine whether there is "no substantial possibility" that the company or its affiliates could use monopoly power to im-

pede competition in the market the company intends to enter. (§103(b)(2).) If the Department takes no action within that time, the company would be free to engage in the activity at the end of the 1 year. The Department would be permitted to shorten this waiting period by providing early notice to the Bell company that it does not intend to initiate any legal action. (§103(b)(1)(B)(ii).)

The bill includes numerous safeguards to prevent manufacturing affiliates from unfairly benefiting from their affiliation with Bell companies and vice versa. Under the measure, Bell operating companies must conduct their manufacturing activities through separate affiliates having their own financial books, records, and accounts, and it generally prohibits the Bell companies from providing any in-kind benefits such as advertising, sales, or maintenance. (§201.) Bell companies would be specifically prohibited from subsidizing their manufacturing affiliates with telephone revenues. The measure also requires manufacturing affiliates to sell their products to all telephone companies at prices and terms equal to the prices and terms it sells its equipment to its parent Bell company.

Section 201 of the bill contains a "domestic content" provision which sets down the general rule that a manufacturing affiliate must conduct all of its operations within the United States and that all component parts must also be of domestic manufacture. There is, however, an exception to this. Foreign manufactured component parts may be utilized if a good faith effort fails to secure equivalent parts manufactured within the United States, provided their cost does not exceed 40 percent of the sales revenue derived in any calendar year from the manufactured product. Furthermore, and most significantly, the general rule does not apply to the extent any of its provisions are determined to be inconsistent with any multilateral or bilateral agreement to which the United States is a party, such as a Bilateral Investment Treaty, the North American Free Trade Agreement, or GATT. This is an enlightened and fair resolution of a difficult problem—balancing competing interests.

Beginning 5½ years after enactment, the regional Bell companies and their operating affiliates are permitted to file applications to the Federal Government to provide alarm monitoring services. (§101(a)(1)(A).) As with Bell applications to provide long-distance services, the Justice Department and FCC would have to make separate determinations within 6 months whether the provisions of alarm services by a Bell company would impede competition or serve the public interest. The measure requires the FCC to issue rules regulating Bell company provision of alarm monitoring services, and it permits the FCC to penalize Bell companies that violate FCC regulations—including ordering a company to cease providing such services. (§202.)

The measure establishes certain rules under which the Bell companies may provide electronic publishing services, including the dissemination, publication, or sale over telephone lines of news, business and financial reports, editorials, columns, sports reporting, features, advertising, photos or images, research material, legal notices and public records, and other such information. (§203.) These rules would expire June 30, 2000.

Section 203 would add a new section 231 to the Communications Act of 1934. It establishes a number of safeguards to ensure equal access to interconnections for all electronic publishers. Under its terms, the Bell companies would be permitted to provide electronic publishing services over their own telephone lines only if such services are provided through a separate affiliate or a joint venture with an electronic publisher. Furthermore, joint ventures between the Bell companies and newspaper publishers would be encouraged, and joint ventures between the Bells and small, local electronic publishers are encouraged in particular. The separate affiliates or joint ventures would be required to maintain their own books, records, and accounts, and could not engage in any joint sales, advertising, or marketing activities with affiliated Bell companies.

When the House Judiciary Committee considered this matter in March, I offered an amendment dealing with the definition of "electronic publishing." My concern focused on the fact that the definition in the bill as introduced appeared to be almost exclusively newspaper oriented. The problem, of course, is that a number of non-newspaper entities are engaged in the electronic publishing business. For example, the Economic and Commercial Law Subcommittee received testimony from the President of the West Publishing Co., who expressed the view that all content-based information should be included within this definition.

So, I felt that the protections contained in section 203 should extend to a novel, textbook, or scientific journal, as well as a newspaper. Similarly, magazines should be covered as well as electric legal research tools such as Westlaw and Lexis. Consequently, the legislation that comes to the floor of the House contains an expanded definition of the term "electronic publishing." For example, my amendment added "legal, consumer or credit material", "research material" and "public records." In addition, it clarified that electronic publishing includes "scientific, educational, instructional, technical, professional, trade or other literary materials." It is important to note that the term "electronic publishing" does not include any of the out-of-region activities of a Bell company, nor does it include wireless or cellular services, or cable television.

Obviously, Mr. Speaker, this is very important legislation. If this bill is enacted, seven strong competitors will enter into new telecommunications markets, providing a broad range of additional products and services to their customers. This is justified because the boundaries between local service and long distance have blurred and, in some places, the local telephone exchange is no longer a monopoly. We need to provide the Bell companies with incentives to invest in their local networks. This bill replaces judicial oversight of national telecommunications policy with a sensible regulatory structure. At the same time, the legislation protects basic antitrust principles.

Given the lateness of the session and the importance of having this legislation enacted this year, the committees decided to go forward under the expedited procedure of suspension of the rules. It is my hope that the other body will give this important measure serious and prompt consideration. I strongly urge an "aye" vote on the part of my colleagues.

□ 1250

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield myself such time as I may consume.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, I want to thank my good friend, JACK BROOKS for yielding.

Mr. Speaker, I rise in strong support of H.R. 3626. I urge my colleagues to join me in voting for this important piece of legislation. This legislation ends years of bitter and divisive wrangling between industry, between committees in the Congress and between individuals.

The compromise is not the one which I would necessarily sponsor nor that which my dear friend from Texas, Mr. BROOKS, would have sponsored. I want to commend him for the fine way in which he worked with me, express my gratitude and appreciation to him and tell the House that this is an extraordinary example of the cooperation that can exist between industries, communities, and between committees and Members of this body.

The bill we bring to the House today memorializes the compromises, is a fair and balanced bill and deserves the support of the House.

But I would also like to commend the distinguished and able chairman of the Subcommittee on Telecommunications of the Committee on Energy and Commerce, Mr. MARKEY, for his extraordinary leadership in the joint handling of this and the other legislation that will be before this body today. He has held 7 hearings, moved the bill out of the committee expeditiously, and saw to it that it passed our committee with an overwhelming vote. I commend him for his efforts.

Equal gratitude goes to my dear friends, the ranking minority member of the committee, Mr. MOORHEAD, Mr. FIELDS, and Mr. OXLEY, two of the more valuable members of this committee for whom I have great respect.

At this time I would like to again express my thanks to my dear friend, Mr. BROOKS, and engage in a brief colloquy with him.

I want to clarify with my coauthor of the legislation the intent behind those provisions in section 102 concerning the responsibility of the Department of Justice if it seeks to enjoin a Bell company from entering into the business of intra-state interexchange telecommunications services after a State has granted permission to such company under that section.

Does my dear friend the gentleman from Texas agree that the intent behind this provision is to require the Department to seek in its complaint when commencing a civil action not only a permanent injunction but also a temporary or preliminary injunctive relief if it desires to prevent a Bell company from offering the services authorized by the State?

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to my friend, the gentleman from Texas.

Mr. BROOKS. I thank the gentleman for yielding.

Mr. Speaker, yes, the intent behind those provisions is to require the Attorney General to seek all customary and available forms of injunctive relief as provided under the Antitrust laws and under the Federal Rules of Civil Procedure. Such relief would include temporary restraining orders, preliminary injunctions, as well as permanent injunctions.

Indeed, it is the usual and customary practice of the Department of Justice in antitrust cases seeking to enjoin anticompetitive activity to request preliminary as well as permanent injunctions. In implementing this provision, the Department will proceed in the same fashion under the applicable provisions of section 102 as it customarily does in other areas, such as merger enforcement, and will therefore request preliminary as well as permanent injunctions.

Mr. DINGELL. I thank the gentleman.

Thus, Mr. Speaker, as Chairman BROOKS and I have agreed, section 102 provides that a Bell operating company may provide intrastate interexchange telecommunications service that has been authorized by a State if the Attorney General fails to commence a civil action to enjoin the company from so doing or brings such a civil action but fails to obtain an injunction. If the Attorney General fails to seek or obtain temporary or preliminary injunctive relief, the Bell operating company can proceed to offer the service pending a trial on the merits in which the court would decide whether or not to issue a permanent injunction.

Mr. Speaker, H.R. 3626 is one of the most important pieces of telecommunications legislation that I can recall coming to the House floor.

Together with its companion bill offered by our dear friends, Mr. MARKEY and Mr. FIELDS and Mr. OXLEY, it will provide a whole new and updated framework for the development and implementation of telecommunications policy. I urge my colleagues to support both of these important bills.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3626, the Antitrust and Communications Reform Act of 1994. This bill is critical because it returns important telecommunicatibns policy authority from the courts to Congress where it belongs and it transfers the powers of overseeing the activities of the Bell operating companies from the Federal courts to the Federal Communications Commission and the Department of Justice.

Since 1984, when the Bell operating companies were restricted from entering various lines of businesses as a result of the consent decree entered into in an antitrust case, the industry has undergone significant changes. As a result of these changes, the restrictions imposed by the consent decree are no longer necessary and now serve as barriers to real competition.

H.R. 3626 sets out the policy standards, limitations, and procedures for the entry by Bell operating companies into previously restricted businesses, including manufacturing, alarm monitoring and long distance as well as the guidelines for providing information services.

These are complicated issues which were carefully considered by the energy and Commerce Committee and the committee reported the bill on a voice vote.

Mr. Speaker, we have all heard and spoken of the benefits the information superhighway will bring. H.R. 3626, together with H.R. 3636, will lay the foundation for the construction of this highway by removing unnecessary regulatory barriers and allowing for competition to flourish.

I am pleased to be a cosponsor of this legislation and urge my colleagues to support H.R. 3626.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield myself such time as required in order to have a couple of colloquies with the distinguished chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL].

Mr. Speaker, I would like to engage the gentleman from Michigan in a brief colloquy on the savings clause inserted into the so-called domestic content provisions of the manufacturing section of the bill as found in section 201. As the gentleman knows, the savings clause was inserted to mitigate any concerns of the Office of the U.S. Trade Representative that these provisions might undermine the international obligations of the United States with respect to bilateral and multilateral agreements entered into with other countries.

Specifically, who will make the determination called for by the savings clause?

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to the distinguished chairman.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Speaker, in general, the President and the U.S. Trade Representative have responsibility for carrying out the trade laws and ensuring that our actions are consistent with our international obligations. This language envisions that any determination is subject to review by Federal court.

Mr. BROOKS. I thank the gentleman for this clarification. Mr. Speaker, I would like to engage the distinguished chairman of the Committee on Energy and Commerce in a colloquy regarding the exceptions for incidental services set forth in H.R. 3626.

The bill permits a Bell operating company or an affiliate thereof to provide interexchange telecommunications that are incidental to its offering of other services, such as cable television or cellular radio. The exceptions for incidental interexchange services are intended to be narrowly construed and are not a back door for the Bell operating companies or their affiliates to provide interexchange telecommunications services or their functional equivalents without going through the approval procedures specified in the bill.

Mr. DINGELL. Mr. Speaker, the gentleman from Texas is correct.

Mr. BROOKS. In this regard, the storage-and-retrieval exception would not cover any service that established a direct connection between end users, any real time voice and data transmission, or any service that is the functional equivalent of or substitute for an interexchange telecommunications service.

Only storage-and-retrieval services in which the customer initiates the storage or retrieval of information would be included under this exception. Thus, voice, data, or facsimile distribution services in which the Bell operating company or affiliate forwards customer-supplied information to customer- or carrier-selected recipients would not fall within the exception. Likewise, the exception would not include any service in which the Bell operating company or affiliate searches for and connects with the intended recipient of information, e.g. roving or automatic forward-and-connect services, or any service in which the Bell operating company or affiliate automatically forwards stored voicemail or other information to the intended re-

cipient. For a storage-and-retrieval service to qualify under this exception, the recipient must act affirmatively to initiate the retrieval of the information from the storage facility.

Mr. DINGELL. The gentleman is correct. Storage-and-retrieval services that include the kinds of end-to-end capabilities you have described are, or could become, substitutable for interexchange telecommunications services. A Bell operating company or affiliate wishing to offer such storage-and-retrieval services could seek authorization to do so from the Department of Justice, the FCC, and the appropriate State, as the case may be.

□ 1300

Mr. BROOKS. Mr. Speaker, that is correct, and I want to thank the gentleman from Michigan [Mr. DINGELL] for this colloquy.

Mr. Speaker, I reserve the balance of my time.

Mr. FISH. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, it is hard to imagine a subject more consequential to the future of the American economy than that of regulation—or deregulation of telecommunications. The ability of companies in this field to compete and collaborate freely, with a minimum of Government second-guessing and direction, is vital to American leadership in high technology.

It is also hard to imagine, therefore, any subject less fit for the suspension calendar than this one. The law we pass here, if we do not fully explore its provisions and consider its potential costs, will be a law operating in subordinance to that other and eternal law of this place—the law of unintended consequences. Have the Members so exhausted themselves with study and debate on the issues raised by H.R. 3626 and H.R. 3636 that they are already prepared to put their names down in support of it? I do not think so.

I know the sponsors worked hard on these bills. I know they mean well and feel they have done the best they can. But these bills were produced in their present written form only this past weekend; they are complicated and lengthy—almost 200 pages.

Of much greater concern, their sweeping economic provisions appear to constitute what Bruce Chapman of Discovery Institute, in a Washington Post article yesterday, called a Rube Goldberg industrial policy—that is—sure to make the public as well as the business community unhappy before long.

How many Members could stand up here and discuss these many provisions, let alone debate them?

How many of us are prepared to be grilled about these bills by our constituents this fall if awkward questions are raised?

People involved in technology often are not people involved in politics—until, that is, they figure out what their elected officials have done to them. That is beginning to happen on these bills. For example, the Internet is busy with conjecture about the haste with which this weighty subject is being addressed by the House.

For example, on a telecom electronic roundtable called the Federal Information News Syndicate, Vigdor Schreibman, editor, reported the following yesterday:

> A number of citizens have expressed outrage that such an important legislative initiative that will change the global civilization would go to a vote without adequate consideration of the language of the measures. * * *

I could have told Mr. Schreibman that I personally have heard similar reactions—amounting to incredulity—around this building, too.

One of the Nation's top experts on telecommunications policy, George Gilder, told several of us the other evening that he was appalled that so serious and sobering a set of measures might be adopted with so little understanding and discussion by this body. The results could be disastrous.

Privately, many of the lobbyists on various sides of these measures also acknowledge that this is very seriously flawed legislation with the potential to backfire upon its supporters, however well-intentioned. Remember the Cable Act of 1992, which among other unintended consequences is giving us higher rather than lower rates in many areas and knocking C-SPAN off of the sets of millions of Americans?

Remember catastrophic health insurance—a different sort of topic, except for the common feature of an inordinate rush to passage?

What shall we tell the mayors, county commissioners, and other local officials who are protesting these bills? The National League of Cities, the U.S. Conference of Mayors, and the National Association of Counties have all urged a "no" vote because they say that—

> The bill, as drafted, virtually gives away local authority over local infrastructure, and does so without real or monetary compensation to local communities.

Maybe they are wrong, but how will we be able to explain our position to them if we have not even debated this bill?

Most importantly, what about the theme of reregulation that runs through these bills, even while they pretend to deregulate? In a dynamic field like high technology, which is doubling its costs effectiveness every year and is seeing the entry of scores of new and often unexpected competitors, why is this body about to endorse a return to railroad era monopoly control models? I would think that any friend of the market economy would be very cautious about heading down such a path.

Why instead do we not follow the more contemporary models of computers and software? In these models, it is the relative absence of Government controls and regulation that has allowed the United States to soar ahead of the whole world and has reinvigorated an otherwise somewhat anemic economy. Renewed monopoly is the wrong model for an economy where wireless communication, satellite, all optical fiber networks and other technologies are all coming on line to compete with the cable and telephone companies.

Do we really want to kid ourselves and our constituencies into believing that this body—with so little discussion before and no debate at all—is ready to second-guess not only the market but the technology itself and to design a whole new, heavily regulated, and indirectly taxed telecommunications regime for America?

I do not pretend to any expertise of the subject of high technology, but I do know something about the House of Representatives. And I think I know something about what the voters expect from us. They expect us to deliberate upon the great and weighty and historic issues of the time. At times like this they do not expect us to surrender our judgment.

Let us have these bills properly discussed and properly debated. They are too important to the future of our country and its economy to be dispatched without such care and attention.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. MARKEY], the distinguished chairman of the subcommittee, with thanks for having handled this bill so well.

Mr. MARKEY. Mr. Speaker, I rise in support of H.R. 3626, the Antitrust and Communications Reform Act of 1994.

This bill, which was approved unanimously by both the Subcommittee on Telecommunications and Finance and the full Committee on Energy and Commerce, coupled with H.R. 3636, the National Communications Competition and Information Infrastructure Act of 1994, represents the most comprehensive communications legislation brought to the House since the original Communications Act of 1934. This bill represents a carefully crafted compromise by the Energy and Commerce and the Judiciary Committees to balance the important regulatory and antitrust issues facing the telecommunications industry today. This compromise encompasses a myriad of different interests and perspectives both public and private—both in and out of Congress. Furthermore, this bill embodies countless hours of work on proper telecommunications reform by Congress over the last several years. The dawn of the Information Age has come and this bill will ensure that it is an age marked by fair competition and consumer protection.

It was Samuel Morse in 1844 who raised the curtain on the Information Age with a telegraphic message sent from Baltimore to Washington. Morse was an inventor, but he had the in-

stinct of a talk show host. With a series of electric blips he asked Washington this question, "What hath God wrought?"

One hundred and fifty years later, we meet on the House floor to ask a less cosmic, but still compelling, question. "Whither the Information Age?"

God hath wrought the most innovative, competitive, remarkable industry in the world today, and we in Congress have the responsibility for accelerating this unrivaled capacity for reinvention and growth. The jobs of the future, the hopes of our children for expanding opportunities and a better life, ride on the passage of these bills today.

If we pass this bill, Congress will send its own message to the world, not in Morse Code, but in plain English over miles and miles of tiny strands of glass and digitally-compressed spectrum. We will send the message that America is placing its hopes and dreams in the ingenuity of its information entrepreneurs, and it is confident of its future.

H.R. 3626 lifts many of the restrictions placed on the Bell companies in the so-called modified final judgment [MFJ], a consent decree struck between AT&T and the Justice Department in 1982. The bill frees the Bell operating companies to compete in businesses from which they were previously barred under the consent decree, after winning State and Federal approval. For the past 12 years a single district court has carried the burden of shaping the development of communications law and the communications industry, simply by adjudicating the AT&T consent decree. This bill culminates a long effort over that time to set forth a comprehensive national policy on how telephone companies should participate in the future of the communications world. Now, rather than place the onus of deciding the evolution of the communications industry in the hands of the court, the Federal Communications Commission and the Department of Justice will serve as the guiding legal and regulatory arms in determining the Bell companies' role in the Information Age.

Specifically, the Antitrust and Communications Reform Act of 1994 allows the Bell companies to enter the long distance and manufacturing businesses at certain junctures and sets new safeguards for their participation in the provision of information services.

In the long distance market the act would allow the seven regional Bell operating companies to enter various long distance markets over time as long as permission has been granted by the Justice Department and the Federal Communications Commission. In particular, the Bells would be permitted to enter four submarkets:

In the intrastate long distance market the bill grants authority to the State to regulate the provision of long distance service. Thus, a State would have the authority to decide whether a Bell company may enter the long distance business for the purpose of providing long distance service for calls that originate and terminate in the same State. The Department of Justice is granted 90 days to review any decision made by the State to grant service in this market.

In the interstate long distance market, H.R. 3626 permits the Bell companies to petition the Department of Justice and the Federal Communications Commission to utilize their own networks to provide interstate long distance service throughout their service region. The Department of Justice and the Federal Communications Commission would have to find that there is no substantial possibility that a Bell company could hinder competition by offering the service in order to block them from doing so.

Thirdly, the bill allows the Bell companies to petition the Justice Department and the FCC to provide interstate resale services 18 months after the date of enactment. This provision permits a Bell company to purchase, in bulk, and resell to subscribers on a retail basis, capacity on networks owned by other carriers.

Finally, H.R. 3626 allows the Bell companies, 5 years after enactment of the bill, to petition the FCC and the Department of Justice to build and operate networks outside of their regions.

H.R. 3626 also sets important new guidelines for the regional Bell operating companies' participation in the provision of information services. Specifically, the act contains significant safeguards in the industries of electronic publishing, alarm monitoring, and burglar alarm services.

In providing electronic publishing services, a Bell company would only be permitted to engage in electronic publishing through a separate affiliate or joint venture. Such separate affiliates or joint ventures would maintain books, records, and accounts separate from its affiliated Bell company. Bell companies must provide to any separate affiliate all facilities, services, or information available to unaffiliated entities on the same terms and conditions. All of these rules would expire in 6 years.

Most significantly, the legislation puts in place much-needed privacy protections for American consumers in this area by: First, prohibiting any common carrier from providing customer proprietary network information [CPNI] to any other person unless it is expressly permitted. And by second, developing a "privacy bill of rights" for all communications media to protect consumers whenever they use electronic networks. The three core principles of the privacy bill of rights, which the FCC will regulate with the flexibility to promulgate additional protections in a technology-specific manner as warranted, are as follows: First, consumers get knowledge that information is being collected about them; second consumers get notice that the recipient intends to reuse or sell that information; and third consumers have the right to say "NO" and curtail or prohibit such reuse or sale of personal information.

While the consent decree served a necessary purpose over the last 10 years, and the diligence of Judge Greene deserves note, it no longer serves the public interest at this dynamic time in the evolution of the communications industry. With expert agencies such as the Department of Justice and the Federal Communications Commission allowed to administer a new Federal policy, a policy which will promote competition and innovation while protecting consumers, America will ensure its preeminence in this quickly evolving telecommunications marketplace. The Antitrust and Communications Reform Act of 1994 will open up markets to help establish a competitive, fair, and ever-growing information infrastructure while providing necessary safeguards to protect competition and consumer interests. I urge all Members to join me in supporting this critical legislation.

Mr. MOORHEAD. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. FIELDS], the distinguished ranking member of the subcommittee.

(Mr. FIELDS of Texas asked and was given permission to revise and extend his remarks.)

Mr. FIELDS of Texas. Mr. Speaker, I rise in strong support of H.R. 3626, the Antitrust and Communications Reform Act of 1994. This legislation removes barriers to entry imposed on the Bell Telephone companies as part of the 1982 court decision to divest local telephone service from AT&T. While those prohibitions might have made sense 10 years ago, they increasingly have little relevance in the rapidly changing and evolving telecommunications landscape we see today.

H.R. 3626, which has been sponsored by the chairman and ranking members of both committees that have jurisdiction over it, as well as the Telecommunications Subcommittee chairman and myself, sets out the ground rules for Bell company entry into long distance, information services, and telecommunications equipment manufacturing. The bill recognizes that the Bell companies enter these markets from a historic, if somewhat crumbling, position of monopoly in the local telephone market.

For that reason safeguards, both structural and nonstructural, are necessary to ensure that the threat of discrimination and cross-subsidies remain just that—a threat, not a reality.

Mr. Speaker, I want to commend the primary sponsors, the gentleman from Michigan [Mr. DINGELL], the gentleman from Texas [Mr. BROOKS], the gentleman from New York [Mr. FISH], and the gentleman from California [Mr. MOORHEAD] for their perseverance and hard work in ensuring that the delicate and the careful balance needed in this legislation has been struck and that

after our conference with the Senate that every segment of the industry affected by this legislation will be in a more competitive, a more strengthened, position, and once again I want to commend the sponsors of this initiative for their hard work.

I urge all of my colleagues to support the passage of this legislation, and I say, particularly to my Republican colleagues, this is a deregulatory, procompetitive piece of legislation, a piece of legislation that should be supported by both sides of the aisle of this particular House.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. EDWARDS], the ranking member of the Committee on the Judiciary.

(Mr. EDWARDS of California asked and was given permission to revise and extend his remarks:)

Mr. EDWARDS of California. Mr. Speaker, I rise today in support of the compromise version of H.R. 3626, the Antitrust and Communications Reform Act. I commend my chairman, JACK BROOKS, and Chairman DINGELL for their work in drafting a bill that will foster continued growth in the U.S. telecommunications market.

I especially want to express my support for the provisions of H.R. 3626 which maintain the Justice Department's authority to review all potential entries by the regional bell companies into the long distance and manufacturing markets. Since we are allowing the regional phone companies, which operate currently as virtual monopolies in their service areas, into new markets, we must have in place safeguards against any abuse of such market power. The Justice Department's antitrust expertise will be put to good use in making certain that consumers will always have the benefit of true competition.

Again, I commend my fellow members of the Judiciary Committee as well as the members of the Energy and Commerce Committee for their work on this bill, and I urge my colleagues to vote for H.R. 3626.

Mr. Speaker, the gentleman from Michigan [Mr. BONIOR], referred to a 1993 WEFA study funded by the regional Bell operating companies. This study purports to show dramatic job growth and other economic benefits if current antimonopoly rules restraining the RBOC's are lifted. Among the claims are 3.6 million new jobs nationally, an increase in the GDP of $247 billion, a reduction in the Federal budget deficit of $150 billion, a $33 billion improvement in the U.S. balance of trade and a full 1 percent reduction in both the inflation rate and long-term interest rates over 10 years. This "economic miracle" includes an assumption of $490 billion savings for American consumers in long distance alone. Forecasts like these are especially incredible given the fact that the long distance market which the RBOC's desire to enter produced only $59 billion in annual revenue in 1992, the most recent year for which full data are available.

My concern is that these unbelievable forecasts were developed by using unbelievable assumptions, which have little or no basis in fact. For example, BellSouth forecasts a potential BellSouth price of $.37 for a 5 minute long distance call from Kingsport, TN, to Washington, DC. Comparing this hypothetical price to a price of $.99 for AT&T, they claim a dramatic 63 percent savings. Since the Bell companies currently charge AT&T approximately $.45 for local access costs, it's hard to understand how BellSouth could assume a charge of only $.37 for this call, less than their own charges.

A general assumption in the analysis is that long distance rates would be reduced by 50 percent immediately upon RBOC entry. The report fails to explain how this would be accomplished. The long distance market is already competitive, with studies showing a 66 percent decline in real rates since 1984. Further, with local access costs amounting to $.45 of every long distance dollar, it is hard to imagine what miracles the RBOC's could perform to reduce the remaining $.55 to $.05. Only two possible explanations come to mind. The RBOC's could discriminate against long distance companies by failing to include long distance access costs in their own rates, or the RBOC long distance could be priced absurdly low with the lost revenue made up by higher local telephone rates.

The RBOC's also assume that average real telecommunications service prices will fall by 42 percent over the 10-year period. Again, no basis for this assumption is established. It is also in sharp contrast to actual RBOC increases in local telephone rates during the past 10 years.

Finally, the RBOC's portray this questionable report as a finding of WEFA [Wharton Econometric Forecasting Associates], a leading international forecasting firm. In fact, WEFA, under contract, simply provided the RBOC's with access to its econometric computer model of the U.S. economy. This compute model forecasts results based exclusively on whatever set of assumptions is supplied. In this case, assumptions were supplied by the RBOC's and their consultants. The results, of course, are equally questionable. WEFA performed no independent analysis of the RBOC's assumptions.

Mr. Speaker, a better analysis of the long distance industry was prepared by Stanford Prof. Robert E. Hall and his group, Applied Economics Partners of Menlo Park in my California district. A summary of that study, Long Distance: Public Benefits From Increased Competition, follows:

EXECUTIVE SUMMARY

Important structural changes have taken place in the long-distance industry in the last two decades. The industry has moved from a tightly regulated monopoly to active competition among a number of rival firms. Key steps in the transition were:

The establishment of the legal right to compete with AT&T.

The structural separation of local and long distance accomplished by divestiture of the Bell System in 1984, and

The requirement of equal access by local telephone subscribers to alternative long-distance providers.

Economic analysis predicts that enhanced competition will drive prices down to a new, lower level. Lower prices are a primary way that the public benefits from pro-competitive policies. After the transition to lower prices, competition delivers continuing low prices. These predictions aptly describe actual events in long distance:

Between 1985 and 1988, according to government price indices, the price of long distance relative to the general price level fell by 30 percent.

Between 1988 and 1992, the price fell by about another 17 percent.

The average revenue per minute earned by the three largest carriers fell 63 percent relative to the general price level from 1985 to 1992.

Net of access charges paid to local telephone companies, the revenue per minute of the three largest long-distance carriers fell by 66 percent between 1985 and 1992 after adjustment for inflation.

Since 1989, AT&T's price for regular long-distance calls has fallen by three percent per year net of access charges, after adjustment for inflation.

The transition to competition has also seen a remarkable growth in the quality, variety, and technical capabilities of long-distance services:

Reductions of noise, cross-talk, echoes, and dropped calls have made the usefulness of one minute of telephone conversation rise at the same time that the price of that minute has fallen.

Fiber optics now carry the bulk of long-distance traffic, at lower cost and higher quality than the earlier microwave technology. The transmission speed of state-of-the-art fiber has doubled every three or four years since fiber was introduced.

Long-distance carriers have led the way in digital switching and common channel signaling.

The long-distance industry has developed software methods for providing efficient private network services for large businesses, using common physical facilities.

The industry has created innovative new types of long-distance service to improve the efficiency of communication for consumers and businesses, large and small.

Competition has worked in long distance because the nature of the product and the technology for producing it are suited to competition and because regulation has fostered conditions conducive to competition:

The success of equal access has shown that it is practical and effective to give every telephone user free choice among long-distance carriers.

No customer is a captive of a long-distance carrier. If one carrier provides poor service or overprices its products, the customer can easily switch to another carrier.

There are no artificial barriers to entry in long distance. Although it would be expensive to reproduce an entire national network of the type operated by AT&T, MCI, and Sprint, that investment would pay off if there were much overpricing of service by those national carriers. Moreover, effective entry could occur without construction of any new networks, by leasing capacity from owners of subnational fiber networks and by reselling services from other carriers.

An important part of the evidence that competition has worked in the long-distance market is the lack of monopoly profits among the carriers. The return on assets by the three largest carriers recently has been below the rate of return allowed by regulators for local telephone service.

Proposals have been made to lift the line-of-business restriction and thus permit the Regional Bell Operating Companies [RBOCs] to control long distance carriers. That move would be harmful to long-distance customers because:

The principle of separate ownership of local and long-distance service is sound as a matter of economics; it is the most effective way to ensure reliable, efficient long-distance service and to give customers a free choice among long-distance carriers.

RBOC entry would not increase the number of long-distance carriers in the long run.

Experience has shown that regulators can not prevent all the methods that a local

rier can use to reduce the efficiency of its rivals and to divert business to its own competitive service, when that service is dependent on the local telephone network. This danger is particularly important for long distance.

Regulation also cannot guarantee that costs for a competitive business, such as long distance, are not reported as costs of a related regulated monopoly business, such as local service.

Overall conclusions from this review of the structure and performance of the contemporary long-distance industry are:

The active competition made possible by divestiture in 1984 rapidly drove prices downward.

Price declines have continued because of rapid productivity growth and declining costs.

Prices have declined by much more than just the decrease in access charges.

Competition has proven a highly effective policy approach for the long-distance industry.

Permitting the RBOCs to control long-distance carriers would clearly be harmful. The line-of-business restriction on long distance is sound policy.

In addition, Mr. Speaker, I would note that, section 102(c)(3) provides for an exception to the general rule that the Bell operating companies may not provide interexchange telecommunications without DOJ and FCC approvals. This provision grants authority to provide incidental long distance for the purpose of providing commercial mobile services. Such an exception should not be viewed as a "blank check" to provide long distance telecommunications services without proper review and oversight. Rather, the bill is intended to authorize a subset of long distance telecommunications services that are in incidental to the provision cellular radio or other wireless services. Nothing in this "incidental services" exception should be understood to limit the authority under existing law of the Federal Communications Commission, the Department of Justice, or other appropriate body to regulate or condition Bell operating company provision of these services to protect the public interest or to prevent anticompetitive conduct. In particular, section 108(a) of the bill should be understood explicitly to authorize the Federal Communications Commission to adopt such appropriate conditions and safeguards. In this regard, I note that the Department of Justice has recently proposed some safeguards that should accompany Bell operating company provision of wireless long distance services in connection with a pending MFJ waiver request.

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Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. WASHINGTON].

(Mr. WASHINGTON asked and was given permission to revise and extend his remarks.)

Mr. WASHINGTON. Mr. Speaker, I thank the chairman of the committee for yielding time to me.

I thank the gentleman and also the chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], for their hard work in putting this legislation together. I am pleased to give the legislation my strong support.

Mr. Speaker, I rise in support of the motion to suspend the rules and adopt H.R. 3626. This bill is the result of an enormous effort by Chairmen JACK BROOKS and JOHN DINGELL. As leaders of two great committees of this House, on which I am privileged to serve, the chairmen have shown extraordinary skill and wisdom in moving this measure to the House floor. I urge its adoption.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oklahoma [Mr. SYNAR], chairman of the subcommittee.

(Mr. SYNAR asked and was given permission to revise and extend his remarks.)

Mr. SYNAR. Mr. Speaker, I rise today in support of H.R. 3626, the Antitrust Communications Reform Act of 1994.

Since the Industrial Revolution, our country has benefited from the marriage of technology and the free market to achieve two key goals: First, ensuring the economic prosperity of our citizens; second, maximizing the quality of our citizens lives.

I maintain that telecommunications reform, if it is to truly serve the public interest, must rely on three classic regulatory concepts: First, an across-the-board competitive entry test; second, adequate post-entry competitive safeguards; and third, vigorous, well-financed enforcement of the competitive marketplace.

Let me state what we all know: competition works. The bill we ultimately adopt must give competition a proper chance to work for the benefit of all consumers.

One final important note. This bill will further propel growth in the telecommunications industry and that means both jobs and consumer benefits for our Nation. That is good news for my constituents in Oklahoma and all Americans.

Mr. Speaker, I rise today in support of H.R. 3626, the Antitrust Communications Reform Act of 1994. Since the Industrial Revolution, our country has benefited from the marriage of technology and the free market to achieve two key goals: ensuring the economic prosperity of our citizens while maximizing the quality of their lives. Over the last decade, we have witnessed the growing power of the telecommunications industry in our economy, to the tune of nearly $300 billion in revenue this year, and seen the innovative, and sometimes mind-bending application of this technology in our schools, libraries, hospitals, and homes.

This bill will further propel our Nation's telecommunications progress, and it is good news for my State of Oklahoma. We estimate this legislation will create 3.6 million new jobs for metal, factory, and construction workers. Oklahoma is well-positioned, both geographically and with its workforce, to lead the way as a high-technology, high-wage State in a dynamic global economy that now depends on information technology. I know that by the year 2000, these jobs will anchor communities in northeastern Oklahoma, transforming the job base and helping our young people to get a solid start on their future.

As Congress wrestles with the challenge of overhauling our telecommunications policy, we must not forget the policies and principles that made us a world leader in this industry. For more than 80 years, the antitrust laws have interacted with telecommunications regulatory policy to ensure product and service diversity and price competition to the benefit of consumers. The dual roles for antitrust law and communications law must be preserved and strengthened if we are to advance our Nation's telecommunications industry into the next century.

I have maintained that any reform legislation, if it is to truly serve the public interest over time, must rest on three classic regulatory concepts: an across-the-board entry test, adequate safeguards, and vigorous enforcement. Let me address each of these in the context of H.R. 3626. First, I am pleased that this legislation acknowledges that the Department of Justice has a critical role to play in ensuring that the playing field is level and that competitors compete fairly. By applying the competitive entry test across-the-board to all lines of business, we have codified a tough antitrust standard that must be met before new markets can be opened to players that could use their monopoly power to their competitive advantage.

However, I am concerned that the sequencing of the review process in this legislation is less than desirable if we are to guarantee that consumers benefit immediately competition in the local loop. Currently, the regional Bell operating companies' lock on the local exchange prohibits effective competition. We have seen instances when RBOC's delay competition by denying access to the switch, overcharging for the use of their facilities, and cross-subsidizing local service from monopoly revenues. This bill, while it applies the right standard to judge the potential impact of the regional Bell operating companies' entry into a market, uses that standard as a backstop instead of a threshold test to forestall competitive harm. I look forward to working on this aspect of the bill as we move through conference toward final passage.

Second, I recognize that the bill contains post-entry safeguards to protect certain segments of the telecommunications industry from unfair and rapid encroachment by monopoly firms that could rapidly dominate the market. These safeguards, including extended waiting periods for certain lines of business, both separate subsidiary and separate affiliate requirements, restrictions on the use of Consumer Proprietary Network Information, certain joint activities, and teaming and business arrangements. However, as I expressed during hearings on this subject with representatives of the electronic publishing and alarm industry, safeguards that are deemed right and fair for specific segments of the industry should be applied to all. I believe Senator HOLLINGS' bill, currently under review in the Senate, addresses this issue in an equitable manner.

Third, I am heartened that this legislation actually includes a mechanism through which we can guarantee that its enforcement will be carried out over time. This is no small task. The FCC currently has only approximately 18 auditors to cover 256 audit areas. An amendment I successfully offered during committee consideration of H.R. 3626, allows the Federal Communications Commission to use its authority under the 1993 Omnibus Budget Reconciliation Act to collect fees for the express purpose of beefing up its auditing functions

and cost allocation tracking efforts. We need to provide the Commission the right tools and resources to get the job done, and this amendment is the first step in this process.

I would also like to say a word about the term "affiliated enterprise," a term used in the MFJ to describe the full range of business relationships—including contractual relationships—that can create vested interests and thereby give rise to monopolistic temptations. I am pleased that the bill before us today follows the bill reported by the Judiciary Committee by incorporating this crucial term throughout the legislation's entry test provisions. Although the bill does not include a technical amendment passed unanimously by the full committee that would have alerted readers to the full meaning of the term in the statute itself, the Judiciary Committee report fully explains the term.

Just as this term is not explicitly defined in the bill before us today, it is not explicitly defined in the MFJ. Instead, the meaning of this term is explained in the case law—specifically, in *United States v. Western Electric Co.*, Civil Action No. 82-0192 (D.D.C. Jan. 21, 1992), *aff'd*, 12 F.3d 225 (D.C. Cir. 1993).

I am also pleased that the Attorney General's authority to enjoin entry into intrastate interexchange telecommunications services and the resale of interexchange telecommunications services as provided in section 102(b)(2), section 102(b)(3) and section 102(d)(1) contemplates the full range of injunctive authority. In order for H.R. 3626's entry test to properly protect telecommunications consumers, the Department of Justice must have available the full complement of injunctive remedies to ensure that there is no substantial possibility that those who seek to enter the long distance telephone business could use their monopoly power to impede competition in the markets they seek to enter. Any other reading of the Attorney General's injunctive authority would be inconsistent with the plain language of the bill, the clear intent of the Congress, and the traditional law enforcement role of the Attorney General.

Lastly, I would like to express my disappointment about the nature of the debate we have had over the last 6 months on this legislation. While I commend the two chairmen and the ranking members for the depth and quality of the hearings held, I am disturbed by the lack of participation by Members from both sides of the aisle in the actual formulation of the legislation we have today. Congress can accede to its duty to make decisions only if we have an open, deliberative process that informs the final debate over the letter of the law.

Finally, let me state what we all know: competition works. The bill we ultimately adopt must give competition a proper chance to work for the benefit of all consumers. I look forward to participating further in these issues as we move toward final passage of the legislation.

Mr. FISH. Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. BONIOR], our distinguished majority whip.

Mr. BONIOR. Mr. Speaker, I rise in strong support of H.R. 3626, the Antitrust and Communications Reform Act of 1994. I would like to commend the chairmen of the Judiciary and Energy and Commerce Committees, Mr. BROOKS and Mr. DINGELL, and also Mr. FISH and Mr. MOORHEAD, for delicately crafting the legislation before us today.

Nearly 1 year ago, I submitted, to the House, a study by the Wharton Econometric Forecasting Associates Group predicting that 3.6 million new jobs would be created over the next 10 years if the manufacturing and long distance restrictions were lifted on the regional Bell companies.

Over that period, the study found that $247 billion would be added to our gross domestic product. In addition, consumers would save more than $30 billion from reduced local and long-distance telephone rates.

The study still makes sense today and H.R. 3626 makes complete sense now. Through this legislation, we can rebuild the framework to support America's communications needs well into the 21st century, stimulate the economy, create millions of high quality jobs, reassert our international competitiveness, and provide a strong future for our children.

Mr. Speaker, H.R. 3626 is an excellent bill whose time has come. I urge my colleagues to vote "yes" on its passage.

Mr. MOORHEAD. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio [Mr. OXLEY], who has been very active on this legislation.

(Mr. OXLEY asked and was given permission to revise and extend his remarks, and to include extraneous matter.)

Mr. OXLEY. Mr. Speaker, I rise in strong support of the Antitrust and Communications Reform Act of 1994. I wish to commend Chairman DINGELL and our ranking Republican, Mr. MOORHEAD, for their indispensable leadership, and I want to thank our colleagues on the other committee of jurisdiction for their efforts as well.

As Members know, the Brooks-Dingell-Fish-Moorhead bill sets the terms for the Bell companies' entry into long-distance service, manufacturing, and information services. I have sponsored legislation to allow the Bells to enter manufacturing in years past, and I support allowing Bell provision of long-distance service today. What I want to stress to my fellow Republicans is that this is essentially deregulatory legislation, and as such can only serve to expedite the development of the information superhighway. The concept of a more competitive telecommunications marketplace is one that all Republicans can heartily endorse.

What I want to stress to the House and to the public at large is the bipartisan nature of support for this measure, as evidenced by the decision to place the bill on the suspension calendar. While there may be a few issues that I would have resolved differently—chief among these being the domestic manufacturing and content provisions—I am pleased to say that the majority has been quite open to Republican ideas overall.

One example of this was the acceptance in full committee of an amendment I offered regarding the imputation of access charges. Today, long-distance carriers pay access charges to local telephone companies or their competitors in order to reach customers. The Oxley-Barton amendment will require the regional Bell companies to pay a nondiscriminatory access charge when providing long-distance service.

Regarding domestic content, while I feel that these provisions are protectionist and I would have preferred that they be removed from the bill altogether, I do believe that they have been improved significantly following input from the U.S. Trade Representative, and I a hopeful that they will be further improved in the Senate and in conference.

Mr. Speaker, I include with my remarks a letter on this subject from the U.S. Trade Representative, Ambassador Kantor, as follows:

U.S. TRADE REPRESENTATIVE,
Washington, DC, June 13, 1994.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce.
Hon. JACK BROOKS,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR CHAIRMAN DINGELL AND CHAIRMAN BROOKS: I am pleased that, with the capable help of your staff, we were able to address the concerns that I expressed about H.R. 3626 in my letter to Chairman Dingell and Chairman Markey in February. I believe that the language agreed upon will resolve the difficulties presented by the domestic manufacturing and content provisions in the bill and enable us to carry on with our trade agenda.

As I have repeatedly stated, that agenda includes expanding job opportunities for U.S. workers by bringing down barriers to U.S. exports. In the telecommunications sector, United States worldwide exports increased by 24% in 1993, to a record total of $9.7 billion. These exports are mainly high-end, sophisticated equipment in which United States companies and workers are world leaders. We are making this progress because of the competitiveness of U.S. companies and workers, as well as though bilateral and multilateral agreements and by enforcing our existing agreements.

In this context, the acknowledgment of our international obligations now included in H.R. 3626 is important for our continued progress in opening foreign markets.

Please thank your staff for their hard work in resolving this issue.

Sincerely,

MICHAEL KANTOR.

In any case, Mr. Speaker, I do not feel that the domestic content conflict should be a barrier to passage of this landmark legislation, the most important rewrite of telecommunications law in 60 years. I urge all Members to support the bill.

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair wishes to inform the Members that the gentleman from Texas [Mr. BROOKS] has 2¼ minutes remaining, the gentleman from New York [Mr. FISH] has 2 minutes remaining, the gentleman from Michigan [Mr. DINGELL] has 3 minutes remain-

ing, and the gentleman from California [Mr. MOORHEAD] has 4 minutes remaining.

Mr. MOORHEAD. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BARTON].

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks, and to include extraneous matter.)

Mr. BARTON of Texas. Mr. Speaker, I rise in support of the substitutes to both H.R. 3626 and H.R. 3636. The 1934 Communications Act has served us well, but it is clearly time to make some changes. Technology has advanced dramatically over the past 60 years. Our predecessors in the 73d Congress could not have imagined the present state of telecommunications—pocket phones, wireless fax machines, electronic mail. Both substitutes to H.R. 3626 and H.R. 3636 address the future telecommunication needs of our Nation. Passage of these bills will help us build the information highway of the 21st century.

I commend the authors of this legislation for writing law which delicately balances the various interests and concerns of the telecommunications industry. Nevertheless, I must express concern with provisions in H.R. 3626 requiring regional Bell operating companies [RBOC's] to conduct all of their manufacturing in the United States and use at least 60 percent domestically produced components in their manufacturing.

For legislation which is generally forward looking, such domestic manufacturing and content restrictions are uncharacteristically protectionist. Concerns that the restrictions violates the terms of the North American Free-Trade Agreement [NAFTA] and the General Agreement on Tariffs and Trade [GATT] have been only slightly allayed by a waiver in cases where it's determined to be inconsistent with any multilateral or bilateral agreement to which the United States is a party. But the bill does not specify who or what government entity is responsible for determining whether or not this situation exists.

If this provision becomes law, it is likely to be challenged in court, a process which could drag on for years. Our international competitors would use the opportunity to establish similar standards, thus closing the door to U.S. exports of telecommunications equipment. The real effect of this provision is to isolate U.S. telecommunications manufacturers, a dull-knife approach to international competition. I would hope that we can resolve this issue if not in the other body, then certainly in conference.

The substitute to H.R. 3626 also takes a necessary first step toward addressing serious concerns about RBOC maketing practices for enhanced services, such as telemessaging. In addition to requiring the nondiscriminatory offering of telecommunications services and facilities associated with a carrier's telemessaging operations, these provisions would also prohibit cross-subsidization between telephone exchange service and telemessaging. It is my understanding that this cross-subsidization restriction would serve to prohibit the exchange of funds as well as valuable information between affiliated telephone and telemessaging operations. While I believe these provisions are a good start, stronger safeguards are needed to ensure a level playing field in the telemessaging market.

Telemessaging bureaus provide telephone answering services to the American public which ensure that important and even critical information is relayed to medical personnel and other customers 24 hours a day. This industry has been providing the public with, and has helped to develop, the latest telecommunications technology for over 50 years. There are approximately 3,000 telemessaging service bureaus operating nationwide serving some 1 million customers. The majority of these small businesses are female-owned and employ less than 20 people.

Stronger provisions that provide specific safeguards on the RBOCs' ability to joint market telemessaging and other services, to use customer proprietary network information, and to cross-subsidize among services will help ensure long-term competition in the telemessaging market. Such provisions are essential to permit independent providers of enhanced services to continue to pursue a livelihood and to allow small businesses to play a viable role in the creation of the Nation's information super highway. I appreciate the willingness of Chairman DINGELL to work with ranking Member MOORHEAD and me on this issue. But it is my hope that as this legislation moves toward enactment there will be an opportunity for such stronger measures to be added.

I wish to thank Mike Regan, of the minority staff, and David Leach of the Chairman's staff, for their help in reaching a level of agreement on the telemessaging amendment to H.R. 3626. I support H.R. 3626 and urge my colleagues to support it as well.

As an original cosponsor of H.R. 3636, I strongly support its passage. I would simply add my thoughts regarding an amendment which was adopted during the full Energy and Commerce Committee markup. My amendment, which I offered at the request of the gentleman from California [Mr. HUNTER] addressed the problem of signal leakage associated with pay-per-view cable programming, specifically adult pay-per-view programming. Earlier this year, we were made aware of cases where cable subscribers who had not purchased adult pay-per-view programming were still receiving partially scrambled video signals and full audio signals over the designated channel setting. Mr. HUNTER and I wish to ensure that both the audio and video signals for obscene or indecent programming are effectively and entirely blocked. H.R. 3636 provides for such safeguards by requiring the FCC to issue new rules on this matter. Furthermore, the bill reinforces the 1984 Cable Act provision regarding blocking devices which parents can use to control viewing of cable service by requiring cable companies to regularly inform subscribers of their right to request and obtain this equipment.

Adult programming is in many cases a profitable line of business for cable operators. It is, however, also programming which is offensive to many cable subscribers. The amendment that I have drafted and which has been included in this legislation allows cable operators to provide adult programming to those cable subscribers who desire it, but protects those cable subscribers who do not wish to receive adult programming from receiving any type of audio or video signal.

I would like to thank Chairman MARKEY and his staff and ranking Member FIELDS and his staff for their assistance on the signal leakage language. In particular, I would like to thank Cathy Reid, of the minority staff, for her invaluable help in reaching a final solution to this issue.

In conclusion, though I have expressed concerns regarding domestic content and telemessaging services in H.R. 3626, I urge its passage. I am pleased with the changes that have been made in H.R. 3636 with respect to the issue of signal leakage, particularly of adult programming or pornography on cable television. I urge passage of H.R. 3636.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to my distinguished friend, the gentleman from Louisiana [Mr. TAUZIN], who has been extremely helpful in getting this legislation to the point where it is today.

(Mr. TAUZIN asked and was given permission to revise and extend his remarks.)

Mr. TAUZIN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, let me remind our friends that the chairman of our subcommittee, the gentleman from Massachusetts [Mr. MARKEY], quoted Mr. Morse, who at the beginning of the telecommunications age in America, asked: "What hath God wrought?"

For the last 10 years the question has been: What have the Federal courts and Judge Green wrote? Because telecommunications policy has not been in the hands of the people of the United States through this legislative body; it has been in the hands of the Federal courts.

This enormous effort today, remarkably coming up under suspension, by broad bipartisan agreement, with the remarkable work of many of our committees, particularly the Committee on the Judiciary and the Committee on Energy and Commerce, for which the two chairmen deserve enormous credit, is remarkable by the fact that we have come together and for the first time in so many years decided to return tele-

communications policy back to the House where the people govern, and we are doing it in a way that opens up competition, not just across lines drawn on a map artificially by judges years ago. We are opening it up also in the local loop so that cross competition will benefit no one else in America no more importantly than the consumer.

The consumer is the big winner today. The process by which we govern here is a big winner today. The American people are the big winner today when telecommunications policy is returned to this body and when for the first time we open up the great possibilities for the information super highway.

Mr. FISH. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. BLILEY].

(Mr. BLILEY asked and was given permission to revise and extend his remarks).

Mr. BLILEY. Mr. Speaker, I thank the gentleman for yielding time to me.

Today we are considering important legislation. For too long the entire debate surrounding the information highway has gone on without congressional action. With Congress on the sidelines, we have watched the courts and the regulatory bodies make national policy in piecemeal fashion. Due in great part to the diligence of Chairmen DINGELL and BROOKS and the efforts of Messrs FIELDS, MARKEY, MOORHEAD, and FISH, Congress will no longer be on the sidelines. And that is the way it should be—this legislation is not just some esoteric exercise, the bill before us will help create jobs, determine the competitiveness of our economy, and to some extent is vital to our national security.

During full committee consideration I offered an amendment that addressed a serious deficiency in the bill that would have allowed regional Bell companies to use their monopoly status in the local loop to disadvantage their competitors. Unfortunately, this amendment was defeated but I am pleased that the negotiators noted my concerns. The competition-based test of the MFJ for Bell company entry into all aspects of long distance and manufacturing incorporated into this bill is a giant step in the right direction. This test requires that an RBOC show no substantial possibility of using monopoly power to impede competition prior to entry. The certainty of this requirement has led to the emergence of over 500 long distance providers and thousands of small manufacturers in the United States, companies which are highly competitive and which, through their aggressive attempts to sell products and services, have generated enormous benefits for the American consumer.

While these changes dramatically improve the bill I do not think that this bill is perfect. I think work needs to be done to close what may be a loophole that gives instate long distance calling to the RBOC's while they still have their monopoly. Also, in my view, the incidental services exception is overly broad and could permit an RBOC to construct nationwide interexchange landline and radio-based telecommunications networks without obtaining prior authorization. It is my hope that I will have the cooperation of Chairman DINGELL to continue to address these issues as the legislation moves through the process.

□ 1329

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas [Mr. BRYANT].

(Mr. BRYANT asked and was given permission to revise and extend his remarks.)

Mr. BRYANT. Mr. Speaker, I rise in support of and to discuss the particularly important Department of Justice role in this compromise bill we are considering—H.R. 3626.

This legislation provides that a Bell operating company may offer intrastate interexchange services and interexchange services through resale if, among other restrictions, the Attorney General either "fails to commence a civil action * * * to enjoin" the Bell company from offering such services, or if, having brought such an action, the Attorney General (I) "fails to obtain an injunction from the district court" or (II) obtains an injunction but the injunction is "vacated on appeal".

The obvious point of these parallel provisions is to ensure that if the Attorney General determines that a Bell company proposal to offer intrastate or resale interexchange services violates the strict antitrust standard prescribed by the bill, the Bell company cannot offer such services until and unless the Attorney General's injunction action is dismissed after a full evaluation of all pertinent evidence at trial or after the injunction is vacated on appeal.

In other words, the bill requires that no Bell company can override the Attorney General's determination of illegality until the Attorney General has had her day in court, on a motion for a permanent injunction—after a full and thorough hearing in accordance with standard antitrust procedure, not a rush to judgment.

Because courts may—and frequently do—enter permanent injunctions in cases where they have earlier denied motions for a preliminary injunction, it makes no sense to interpret the word "injunction" in this bill as referring to a preliminary injunction.

Moreover, it is difficult to conceive of circumstances under this particular legislation in which the Attorney General will find it useful or necessary to seek preliminary or temporary relief pending the outcome of a trial. A Bell company's attempt to offer intrastate or resale interexchange services will be lawful only if (among other things) the Attorney General has failed to file for an injunction.

Once the Attorney General has filed a lawsuit seeking such an injunction, this essential precondition will be absent, and so offering the prohibited service will be unlawful, until and unless the suit fails—after trial or on appeal. The Attorney General will not need to seek temporary pretrial relief from the court, because the statute itself makes such relief unnecessary.

Unlike a stay, the restriction imposed by this legislation is an absolute bar that would render any contrary conduct by the Bell company unlawful—until all of the mandatory conditions spelled out for lawful entry into the specified service areas are met. There is no authority under the bill for a district court or court of appeals to relax, pending a final decision on the merits, the prohibition against the Bell company's offering of the service or services determined to be unlawfully anticompetitive by the Attorney General.

Finally, there is nothing in these provisions that could be a basis for, and we have no intention of, divesting courts hearing cases brought under this measure of their traditional equitable powers. For example, if after trial, the Attorney General's request for a permanent injunction is denied, district courts, appeals courts, and even the Supreme Court, retain full authority to stay the order denying the injunction if they conclude that such a stay is warranted under the circumstances.

Mr. Speaker, I rise to discuss the particularly important Department of Justice role in this extremely well-balanced bill we are considering—H.R. 3626. I also ask unanimous consent to revise and extend my remarks.

Subsections 102(b)(2) and (3) of this legislation provide that a Bell operating company may offer intrastate interexchange services and interexchange services through resale if, among other restrictions, the Attorney General either [Subsection (I) of § 102(b)(2)(C) and also of § 102(3)(D)] "fails to commence a civil action * * * to enjoin" the Bell company from offering such services, or [Subsection (II) of the above two provisions] if, having brought such an action, the Attorney General (I) "fails to obtain an injunction from the district court" or (II) obtains an injunction but the injunction is "vacated on appeal".

The obvious point of these parallel provisions is to ensure that if the Attorney General determines that a Bell company proposal to offer intrastate or resale interexchange services violates the strict antitrust standard prescribed by the bill [Section 101(b)(3)(D)], the Bell Co. cannot offer such services until and unless the Attorney General's injunction action is dismissed after a full evaluation of all pertinent evidence at trial or after the injunction is vacated on appeal.

In other words, the bill requires that no Bell company can override the Attorney General's determination of illegality until the Attorney General has has her—or his—day in court, on a motion for a permanent injunction—after a full and thorough hearing in accordance with standard antitrust procedure, not a rush to judgment.

It is perfectly clear in the context of the overall provision that the injunction referred to in subsection (ii)(I) is precisely the same permanent injunction which is the objective of the suit the Attorney General is authorized to undertake in subsection (i)—not a mere temporary or preliminary order or injunction that she or he, or another party or court—might find appropriate as an interim measure.

Because courts may—and frequently do—enter permanent injunctions in cases where they have earlier denied motions for a preliminary injunction, it makes no sense to interpret the word "injunction" in subsection (ii)(I) as referring to a preliminary injunction.

Moreover, it is difficult to conceive of circumstances under this particular legislation in which the Attorney General will find it useful or necessary to seek preliminary or temporary relief pending the outcome of a trial. Under Sections 102(b)(2) and (3), a Bell companies' attempt to offer intrastate or resale interexchange services will be lawful only if (among other things) the Attorney General has failed to file for an injunction.

Once the Attorney General has filed a lawsuit seeking such an injunction, this essential precondition will be absent, and so offering the prohibited service will be unlawful, until and unless the suite fails after trial or on appeal. The Attorney General will not need to seek temporary pretrial relief from the court, because the statute itself makes such relief unnecessary.

Unlike a stay, the restriction imposed by sections 102(b) and (3) is an absolute bar that would render any contrary conduct by the Bell company unlawful—until all of the mandatory conditions spelled out by sections 101 and 102 for lawful entry into the specified service areas are met. There is no authority under the bill for a district court or court of appeals to relax, pending a final decision on the merits, the prohibition against the Bell companies' offering of the service or services determined to be unlawfully anticompetitive by the Attorney General.

Finally, I note one additional point. There is nothing in these provisions that could be a basis for, and we have no intention of, divesting courts hearing cases brought under section 102 of their traditional equitable powers. For example, if after trial the Attorney General's request for a permanent injunction is denied, district courts, the court of appeals, and for that matter the Supreme Court, retain full authority to stay the order denying the injunction if they conclude that such a stay is warranted under the circumstances.

I would call to your attention the attached letter to Energy and Commerce Chairman DINGELL from the National Association of Attorneys General urging us to pass this legislation incorporating "basic antitrust principles to ensure existing competition is preserved and that no player is permitted to use market power to tilt the playing field to the detriment of competition and consumers."

NATIONAL ASSOCIATION OF ATTORNEYS GENERAL,
Washington, DC, June 6, 1994.

Hon. JOHN DINGELL,
Chairman, Energy and Commerce Committee, U.S. House of Representatives, Washington, DC.

RE: Telecommunications Legislation.

DEAR CHAIRMAN DINGELL: The undersigned Attorneys General are writing to urge you to adopt a telecommunications reform package that incorporates basic antitrust principles to ensure that existing competition is preserved and that no player is permitted to use market power to tilt the playing field to the detriment of competition and consumers. By protecting competition, the antitrust laws promote efficiency, innovation, low prices, better management, and greater consumer choice. Additionally, we urge you to recognize the strong role of the States in ensuring that their citizens have universal and affordable access to the telecommunications network, which is so important in this information society. When antitrust principles and the state role are jointly recognized in legislation, all of our citizens can look forward to an advanced, efficient and innovative information network.

Telecommunications reform is a vital national and state interest. Last year, the National Association of Attorneys General Antitrust Committee established a Telecommunications Working Group to analyze and develop policy positions, where appropriate, on significant issues involving competition in the telecommunications industry.

The rapid evolution of telecommunications technology has given rise to complex issues relating to competition policy requiring sophisticated analysis. In general, however a competitive telecommunications market at all levels—e.g., long-distance service, local exchange service, equipment manufacturing—would best serve the interests of our citizens. It is important to clarify that this consumer interest is promoted only by "effective" competition, i.e., that there be a sufficient amount of competition to ensure that prices are driven to competitive levels. Although we hope that this type of competition will emerge eventually in every part of the information superhighway, the reality today is that local exchange markets are not yet competitive nor are they likely to be in the near term.

The emerging competition in telecommunications markets must be evaluated against the backdrop of the Modification of Final Judgment ["MFJ"], the court-approved agreement that ended the United States Department of Justice's antitrust case against American Telephone & Telegraph Company ["AT&T"]. The MFJ, which went into effect in 1982, allowed AT&T to compete in new markets while mandating that it divest its local telephone service business. The MFJ created the seven regional Bell operating companies ["RBOCs"] and placed certain limits on their activities in the telecommunications arena. Among other things, the RBOCs are prohibited from providing long-distance and equipment manufacturing services. At the same time, however, the MFJ provides a process for RBOCs to obtain waivers to the lines-of-business restrictions contained in the decree. Under the MFJ, waivers can be granted by the decree-supervising federal district court when such factors as new technology and emerging market forces demonstrate "no substantial possibility" of anticompetitive conduct by the applying RBOC in the market it seeks to enter.

While the information services "lines-of-business' restriction has been lifted under this waiver process during the last seven years, considerable debate and attention continues to focus on whether the other lines-of-business restrictions should be lifted. Some argue that the remaining lines-of-business restrictions should not be removed because they fear that the RCOCs will use their regulated, monopoly power in the local telephone service markets to obtain an unfair advantage in the more competitive long-distance market. One of the major concerns in this regard is that the RBOC local monopolies may "cross-subsidize," that is, extract unwarranted profits by overpricing long-distance services. Similarly, the RBOCs could also discriminate against their utility customers who are also their competitors by setting unfair prices and terms for, and designing technical incompatibility into, their utility services. Others argue, on the other hand, the RBOC entry into the long-distance market would facilitate more effective competition in the long-distance market, because that market is currently composed predominantly of only three facilities-based carriers.

Because of these conflicting competitive concerns, we believe that the existing competitive safeguards contained in the MFJ should be incorporated in H.R. 3626. Under the MFJ, the RBOCs are permitted to enter presently prohibited markets only after showing that their monopoly control of local exchange services will not permit them an unfair competitive advantage in the market into which they seek to enter. As William F. Baxter, President Reagan's Assistant Attorney General and Stanford Law Professor, recently stated:

"The monopoly on local service held today by the Regional Bell Operating Companies, or RBOCs, is every bit as tight as the monopoly held by AT&T before the Bell breakup. Legislating away the antitrust protections of the Modified Final Judgment (which I negotiated on behalf of the Reagan administration) while the RBOCs hold this monopoly would be a setback to competition in long distance and, indeed, in a large number of other "information services" dependent upon access to the local switch. Restoration of the two-level monopoly would jeopardize the introduction of advance information services just when they are needed most.

"As I see it, Congress has but one course that will avoid such abuses [e.g., cross-subsidization, discrimination] and expedite the benefits of advanced information technology. It should pass legislation that incorporates the competitive safeguards of the Modified Final Judgment. . . . We should not fall into the trap of thinking that just because local competition is imaginable, it's already here. It's not."

In addition, the states' role in developing and implementing telecommunications policy should be continued. Among the strongest of state telecommunications policies is that of encouraging universal service. The States must retain the ability to ensure that all of its citizens, urban and rural, rich and poor, continue to have access to reasonably priced telephone services.

In considering H.R. 3626 and H.R. 3636 we urge you to address a number of key issues to ensure that consumers benefit in the long term from the creation of this information superhighway.

Because competition in the local exchange will not be introduced in every portion of the country simultaneously, the legislation should empower both state and federal regulators to deregulate their telephone utilities where justified by the amount of competition in a particular local market. We note that the current Communications Act of 1934 provides for shared regulatory authority. Because of the central role of the states in local service regulation, therefore, any preemption of state authority should be approached very cautiously.

Any legislation must preserve and promote universal telephone service at fair, reasonable and affordable rates and also provide a clear, broad definition of universal service.

Consistent with the MFJ, any legislation must not permit RBOC entry into other markets (e.g., long distance) unless the RBOCs can demonstrate that the RBOCs dominant position in relevant local markets would not permit it to monopolize those markets or to

leverage its market power to the detriment of competition in the markets to be opened. State regulators should be empowered to investigate allegations of RBOC cross-subsidy by RBOC competitors.

Cross ownership of telephone companies and cable companies operating within the same service area should be generally prohibited, and exceptions, if allowed, should be drafted narrowly to prevent the telephone companies from extending their monopoly.

No new antitrust exemptions should be created in the telecommunications industry.

There should be adequate consumer representation on the proposed Federal-State Joint Board or any similar board. In addition, a consumer advocate office should be created in the Federal Communications Commission.

Number portability should be mandated as soon as technically feasible.

In conclusion, while supporting your efforts to make a competitive information superhighway a reality, we urge you to abide by the basic competitive concepts which underlie our antitrust laws and which have been instrumental in this country's economic success. These competitive principles, as embodied in the breakup of AT&T ten years ago, have been instrumental in fostering innovation and efficiency, and reducing prices in the United States telecommunications field. Further, the state's role in telecommunications regulation and policy should be maintained in order to ensure that all citizens retain effective and affordable access to telecommunications products and services. Any telecommunications legislation should incorporate these antitrust and state regulation principles.

Thank you for considering our views.

Very truly yours,

Jimmy Evans, Attorney General of Alabama;
Grant Woods, Attorney General of Arizona;
Winston Bryant, Attorney General of Arkansas;
Charles M. Oberly, III, Attorney General of Delaware;
Vanessa Ruiz, D.C. Corporation Counsel;
Robert A. Butterworth, Attorney General of Florida;
Robert A. Marks, Attorney General of Hawaii;
Ronald W. Burris, Attorney General of Illinois;
Robert T. Stephan, Attorney General of Kansas;
Chris Gorman, Attorney General of Kentucky;
Richard P. Ieyoub, Attorney General of Louisiana;
Michael E. Carpenter, Attorney General of Maine;
J. Joseph Curran, Jr., Attorney General of Maryland;
Scott Harshbarger, Attorney General of Massachusetts;
Frank J. Kelley, Attorney General of Michigan;
Hubert H. Humphrey, III, Attorney General of Minnesota;
Jeremiah W. Nixon, Attorney General of Missouri;
Joseph P. Mazurek, Attorney General of Montana;
Tom Udall, Attorney General of New Mexico;
Frankie Sue Del Papa, Attorney General of Nevada;
G. Oliver Koppell, Attorney General of New York;
Michael F. Easley, Attorney General of North Carolina;
Lee Fisher, Attorney General of Ohio;
Susan Loving, Attorney General of Oklahoma;
Theodore R. Kulongoski, Attorney General of Oregon;
Ernest D. Preate, Jr., Attorney General of Pennsylvania;
Jeffrey B. Pine, Attorney General of Rhode Island;
Dan Morales, Attorney General of Texas;
Jan Graham, Attorney General of Utah;
Rosalie Simmonds Ballentine, Attorney General of the Virgin Islands;
James S. Gilmore III, Attorney General of Virginia;
James E. Doyle, Attorney General of Wisconsin; and,
Christine O. Gregoire, Attorney General of Washington.

Also, Mr. Chairman, I would like to comment on the separate subsidiary provisions for electronic publishing.

The separate subsidiary requirement for electronic publishing is extremely significant. It will go a long way to ensuring that the regional Bell operating companies do not exploit their monopolies to unfairly disadvantage competitors in the electronic publishing field. That requirement sunsets in June of 2000. The committee believed that that date—June 2000—would be a reasonable estimate of when competition in the local loop would be sufficient so that a separate subsidiary requirement wouldn't be necessary. If for any reason local competition does not sufficiently exist at that stage, and a threat to competition from the monopoly power of the local exchange continues to exist, the FCC is free to—and should—promulgate regulations to continue the separate subsidiary requirement as appropriate.

Mr. MOORHEAD. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. HASTERT].

(Mr. HASTERT asked and was given permission to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, this legislation represents a truly historic moment for the 103d Congress. H.R. 3626, the Antitrust and Communications Reform Act of 1994, is a sweeping rewrite of 60 years of telecommunications policy in the United States that will responsibly lead the telecommunications industry into the 21st century.

Of particular significance, this legislation has been crafted in such a way—with the acquiescence and support of all major industries—both friends and foes—to be placed on the suspension calendar. Indeed, who would have believed, even as recently as 3 months ago when everyone seemed to be poles apart, that AT&T, MCI, Sprint, and the seven Bell companies would stand united in support of the provisions regarding Bell entry into long distance that are provided for today in H.R. 3626?

And, who would have believed that the Bell companies and the newspaper publishers, as well as the burglar alarm industry, would come together as they have under this bill to enact good public policy?

Indeed, this is truly historic. But, beyond that, today we have achieved in the House the vision that I have strived for throughout my tenure in elected office—first in the Illinois General Assembly and now as a member of the Telecommunications Subcommittee—competition among all entrants in the marketplace—fair and open competition without the burdensome regulatory restraints now in existence. When there is real competition, the people win.

Mr. Speaker, H.R. 3626 represents responsible and progressive telecommunications policy. I rise in strong support of H.R. 3626 and urge my colleagues to pass it overwhelmingly.

Mr. MOORHEAD. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina [Mr. RAVENEL].

Mr. RAVENEL. Mr. Speaker, American consumers today want more competition and more choice in cable TV and video services, and they want that choice in competition now. Legislation was passed in 1992, and the Federal Communications Commission, the FCC, has tried to regulate the cable business since then. But many think the rates are still too high and the choices too skimpy

Under these bills, cable companies can come in and rent video transmission facilities from the phone companies, but phone companies do not have reciprocal rights, namely to rent channels from the cable companies. It is unclear so far whether competing video services can be started up right now, or whether there should be some lengthy delay while all the various safeguards are put into place. It seems to me like these two bills address these problems, and I am certainly happy today to take a minute to endorse both the bill we are on and the subsequent one that will be up in just a minute.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. SLATTERY].

(Mr. SLATTERY asked and was given permission to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, I rise in strong support of this historically important legislation.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington [Mr. KREIDLER].

(Mr. KREIDLER asked and was given permission to revise and extend his remarks.)

Mr. KREIDLER. Mr. Speaker, we have before us the most comprehensive communications legislation considered by this body since the Communications Act of 1934. Obviously, much has changed in the world of communications since then.

Thanks to Chairman DINGELL, Chairman MARKEY, Chairman BROOKS, and ranking minority member Mr. FIELDS, the Congress is now finally able to catch up with those changes.

The framework we are developing today will bring enormous benefits tomorrow and in the future, including: new high-skilled jobs for U.S. workers, exciting new services for the American public; globally competitive telecommunications technologies; and much needed competition in the telecommunications marketplace.

I am particularly pleased by the compromise achieved in H.R. 3626 regarding entry by the RBOC's into the long distance market. The revised bill does a better job of putting appropriate lines of authority and standards in place to enhance regulatory oversight and protect consumers.

I would also like to thank Chairman MARKEY for accepting my amendment in committee to make sure that higher education institutions will have a voice when the FCC sets rules for public access to the information highway.

In closing, Mr. Speaker, let me just say that America's future as a leader in telecommunications technologies and services depends on these bills. I urge my colleagues to support H.R. 3626 and H.R. 3636.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to my distinguished friend, the gentleman from Washington [Mr. SWIFT].

(Mr. SWIFT asked and was given permission to revise and extend his remarks.)

Mr. SWIFT. Mr. Speaker, there was a silly column in the Washington Post yesterday which criticized this bill for being rushed through the Congress. Mr. Speaker, my hair has turned gray while we have been rushing this bill through the Congress.

The 1934 Communications Act was really an extraordinary piece of legislation that has served this country well for a very long time. But technology and new realities of competition have stretched it farther than it can go. And this legislation today I think will be seen in years ahead as historic as the 1934 act, as it adds to that act and gives it the flexibility and the elasticity it needs to serve this country in the new realities.

I cannot think of two committees who could have done a better job, because tied up in this legislation are legitimate concerns about antitrust, and about anticompetitive behavior, and about predatory behavior, and so forth. The Committee on the Judiciary has stood tall on those. The Committee on Energy and Commerce has looked at the telecommunications policy that is so important to the economic future of our country, and together they have turned out a remarkable piece of legislation.

□ 1330

Mr. BROOKS. Mr. Speaker, to conclude the debate, I yield the balance of my time to the gentleman from Virginia [Mr. BOUCHER], a leader in formulating this resolution.

(Mr. BOUCHER asked and was given permission to revise and extend his remarks.)

Mr. BOUCHER. Mr. Speaker, the Antitrust Reform Act will bring much-needed competition to the markets for long distance and for telecommunications equipment. As we remove the barriers to competition of the local telephone exchange, it is only fair that we also free the seven Bell operating companies to compete in the market for long distance and the manufacture of equipment. But more than fairness to these companies underlies this reform. The public deserves the benefits that new competition will bring to the long distance and equipment markets.

As we forecast lower prices and new services arising from new competition, we also have confidence that anticompetitive conduct will not occur, as Bell companies offer their own long-distance service while continuing to connect other long-distance providers to their local exchange customers.

That confidence arises from the carefully constructed provisions of the legislation that require that before Bell companies offer long distance, they satisfy the U.S. Department of Justice that there is no substantial possibility of anticompetitive harm from their entry into the market.

For service within a given State, they must gain the approval of the State's public service commission before offering long distance statewide. And the U.S. Department of Justice is accorded an opportunity to review the State decision to ensure that other long-distance providers receive fair access to the Bell companies' customers.

These protections, Mr. Speaker, strike exactly the right balance. They offer to the public the benefits of increased competition in both the long-distance market and the manufacture of equipment, a lucrative market in long distance which today is dominated by three large carriers.

At the same time they contain stringent safeguards to ensure that Bell companies not use their local networks in such a manner as to restrict access to their subscribers for other long-distance companies.

Some would argue that the U.S. Department of Justice is not up to the job of protecting consumers in this circumstance. They would prevent the public from getting the benefit of added competition in long distance until the local exchange is fully competitive, a circumstance which will not arise in many parts of the Nation until well into the next century. The Justice Department is up to the job. We can have the early benefits of added long-distance competition while assuring that anticompetitive harm will not occur.

Mr. Speaker, I commend the gentleman from Texas [Mr. BROOKS] and the gentleman from Michigan [Mr. DINGELL] for their thoughtful work and for the balance their measure contains. I am pleased to support their reform and urge its passage.

Mr. BROOKS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Arkansas [Ms. LAMBERT].

(Ms. LAMBERT asked and was given permission to revise and extend her remarks.)

Ms. LAMBERT. Mr. Speaker, I rise in support of H.R. 3626. Mr. Speaker, I am extremely pleased to join the supporters of this legislation and its companion bill (H.R. 3636) to advance the information superhighway. I congratulate Mr. DINGELL, Mr. BROOKS, Mr. MARKEY, and Mr. FIELDS for their vision in realizing the vast technological opportunities that lie ahead.

These bills are especially important for rural areas like the First District of Arkansas. Rural consumers will benefit from highly progressive technology while being protected from unreasonably high rates. Together, we have ensured that folks in Possum Grape, AR, will have access to the same telecommunications advances that are made in New York City.

I would like to thank Chairman MARKEY for working with me to draft amendments to ensure that small- and medium-sized phone companies will receive equal footing when competing against the big guys. These smaller companies could have been vulnerable to "cherry picking" by large telephone carriers that have the resources and revenues which dwarf those of independent phone companies. "Cherry picking" would have threatened the viability of independent phone companies by taking away their largest customers like universities and major corporations, leaving high cost small business and residential customers that rely upon subsidies provided by larger customers to ensure universal access.

In addition, I would like to thank Mr. MARKEY for working with me to ensure that phone rates charged in rural areas match rates charged in urban areas. We have helped maintain our current system under which long-distance providers average the costs associated with providing service to both rural and urban areas and charge all residents that same rate. For example, the rate charged from Washington, DC, to rural Arkansas is about the same as the rate from Washington, DC, to Minneapolis or West Palm Beach. Together, we have made sure that as new competitors enter the long-distance markets they will not be able to de-average their rates. We have protected customers who live in less populated areas.

One additional component of these bills that will help rural areas is a National Newspaper Association-sponsored ARC provision. This section of H.R. 3626 will assure that community newspapers, including the 36 weeklies and 11 dailies in the First Congressional District, have a place on the information highway. It assures them fair access, fair rates, and fair competition.

Mr. Speaker, in hometowns like mine, people still look forward to sending their dogs out to pick up the weekly paper with pictures of Little League teams and church socials. Whatever form that news may take in the future—whether it is digital bits or bytes—it is essential that we make sure our community newspapers will have a place in the 21st century.

With sincere respect for the bipartisan effort and years of negotiation that

have gone into these two bills, I am proud to stand in support of them today.

Mr. KING. Mr. Speaker, I rise today in support of H.R. 3626, legislation that would help pave the road to the information superhighway for all Americans, including people with disabilities.

Mr. Speaker, people with disabilities have a particularly strong interest in seeing the rapid and healthy development of an information superhighway, since many of the benefits will directly improve their lives.

H.R. 3626 will allow all players to fully compete in the telecommunications marketplace, which will make services available to all Americans to enrich their lives. This legislation contains provisions of particular importance to people with disabilities because it will enhance their participation in professional, social and entertainment activities, and increase their job opportunities.

Mr. Speaker, people with disabilities have been underserved in the areas of telecommunications equipment and services. This legislation will ensure that they are no longer left out in the cold. The bill requires the Federal Communications Commission to prescribe regulations that will ensure telecommunications equipment manufactured by a Bell company and network services provided by Bell companies are accessible and usable by people with disabilities. This will be a vast improvement for this segment of the population.

H.R. 3626 supports people with disabilities so I urge my colleagues to support this bill. Vote "yes" on H.R. 3626.

Mr. RICHARDSON. Mr. Speaker, today, I rise to support H.R. 3626, even though I have lingering concerns about the consequences that this legislation will have on competition in the telecommunications industry and on the rates that consumers pay for phone service. H.R. 3626 signals a fundamental shift in the way that the bulk of the telecommunications industry is regulated. H.R. 3626 frees the regional Bell companies to offer services prohibited under the terms of the 1982 modified final judgment consent decree. I am hopeful that a flexible and competitive telecommunications policy will result from our work on H.R. 3626.

I was pleased the committee incorporated language to hold electronic publishers, that enter into a joint venture with a Bell company, to the same EEO standards as other telecommunications entities. This is a case of industry parity and it is essential that we harmonize our policies, so that there is no mistaking congressional intent in ensuring equal opportunity for all Americans.

On domestic content, I am pleased that the committee has moved to resolve an issue which concerned me, the administration, and our trading partners. I believe that we are on the right track on domestic content and I look forward to seeing the final version of this when it emerges from conference.

I am pleased that the committee has begun to seriously address the problems regarding consumers and competition. I am concerned that consumers will end up paying the price of deregulation. I believe that the bill before us today goes a long way toward protecting consumers and ensuring a healthy competitive atmosphere. However, I remain concerned over the power that the regional Bell companies now wield in local markets and the effect deregulation will have on other market entrants and ultimately consumers. I look forward to working with the committee to thoroughly resolve these critical issues.

Mr. Speaker, this bill reverses years of Government regulation of an industry that should now be freed to compete. We may wrangle over the details but it is critical that we pass this legislation resoundingly. I urge my colleagues to vote in favor of H.R. 3626.

Mr. DELAY. Mr. Speaker, I rise today to address the social and economic benefits of H.R. 3626, the Antitrust and Communications Reform Act. This legislation will lift restrictions on telecommunications services that can be offered across artificial boundaries and expedite investment in our telecommunications infrastructure while encouraging lower rates. The result is that Americans will pay less for more.

Increased competition through deregulation accomplishes several important things. it spurs the creation of new technology, making the United States more competitive internationally. It also allows the marketplace to work freely, resulting in lower prices. Therefore, perhaps the best news about H.R. 3626 is that not only will it result in more choices for consumers, but it will do so at affordable prices. Competition will keep phone rates low and quality high, which will provide consumers a greater opportunity to realize the benefits of the information age.

H.R. 3626's promotion of greater competition and technological advances will aid in the development of the information superhighway. Examples of such advances include an enhancement of medical services and procedures through telecommunications applications, as well as greater access to education and training materials, regardless of the location of the user. Telecommuting could reduce air pollution and traffic congestion.

With H.R. 3626, these benefits will become more accessible to anyone with a telephone, bringing them fully into the information age marketplace. Without this bill, only a privileged few will enjoy the benefits of the rapidly changing telecommunications arena.

I urge my colleagues to pass H.R. 3626 so that all consumers, not a select few, will be able to afford the new services available through enhanced technology.

Mr. BLILEY. Mr. Speaker, I understand that there were suggestions earlier that the long-distance carriers supported entry by the Bell companies into long-distance under the conditions specified in H.R. 3626. That is not my understanding. They did support moving the bill through the House. The long-distance companies have been quite clear and consistent, however, in saying that they support a "no substantial possibility" of anticompetitive effects test across the board in long-distance, one that specifically incorporates an effective competition test in the local telephone market.

There remain loopholes in the bill that weaken the entry test in the area of intrastate and resale, and potentially overboard authority to offer incidental long-distance services. As I said earlier, it is my hope that we can have Chairman DINGELL'S cooperation in addressing these problems as the bill moves through the process. Attached for the RECORD is a study by former Secretary of Labor Ray Marshall that outlines the potential problems.

BUILDING THE INFORMATION SUPERHIGHWAY: GETTING THE COMPETITION RIGHT—SUMMARY

(By Ray Marshall)

INTRODUCTION

The National Information Infrastructure (NII), or the "information highway," is at the heart of America's future; it will provide the path to improved education, health care, productivity, economic growth, and participation in community and public affairs. Indeed, it is hard to imagine an undertaking with greater significance for the quality of our lives. The Clinton administration stresses the need for public-private cooperation in constructing the NII. Legislative proposals before Congress are driven by the goal of establishing competition in communications markets. Private investors governed by competitive market forces will be primarily responsible for completing the construction of this infrastructure, but the government would provide the framework for universal access, remove antiquated regulatory barriers to competitive markets, establish policies to achieve and maintain competitive market conditions, and provide incentives for private investment and innovation.

While there is good reason to rely heavily on competitive markets, the proposals to allow the Regional Bell Operating Companies (RBOCs) to enter competitive industries before local telecommunications markets are fully competitive would harm competition, reduce the growth of output, employment, and technological innovation; potentially cripple the NII; and raise prices to consumers. The sequence of authorizing competitive entry into local market, subjecting that entry to a market test to determine whether effective competition can develop, and then allowing RBOCs into long distance when effective local competition has in fact developed, is the key to consumer benefits, economic growth, and technological innovation.

This paper explores these propositions in greater depth, discusses the conditions needed to ensure the proper evolution to competitive markets, and suggests some of the tests needed to determine whether or not competition has been achieved.

THE IMPORTANCE OF THE NII

There is little doubt about the importance of the NII. Information technology has become an infrastructure at least as important to national and personal welfare in the "Information Age" as highways and railroads were in the past. It would, moreover, be hard to think of an activity with greater economic importance. As Peter Drucker observed recently, "few things stimulate economic growth as the rapid development of information, whether telecommunication, computer data, computer networks or entertainment media." The development of leading-edge technology is the key to economic success and national well-being in more competitive knowledge-intensive national and global economies. Technological progress, in turn, involves using information to improve quality, productivity and flexibility—the essential determinants of economic success under competitive conditions. Information, in addition, improves individual, business and public decision making, as well as the delivery of public and private services. Telecommunications is a technology driver, as well as the heart of the national information infrastructure, and probably has larger multiplier effects for the whole economy than any other industry. Information networks consequently have become major determinants of economic performance, as well of personal and national welfare.

REGULATORY BACKGROUND

As noted, however, the health of the telecommunications industry depends heavily on establishing effective competition. Because they had increasing returns to scale and therefore declining costs, telecommunications companies were assumed to be "natural monopolies" throughout most of this century. This changed in the early 1930s, when long distance, manufacturing, and information services were separated from the local telephone monopolies as part of the Modification of Final Judgment (MFJ). That consent decree broke up the Bell System, based on the realization that structural separation was the only effective way to prevent abuse of power by the telephone monopolies.

Before the MFJ, economists and policy makers attempted, without much success, to prevent the abuse of monopoly power and approximate competitive outcomes for consumers through regulations. Regulating "natural" monopolies was always problematic at best, but became increasingly more difficult in dynamic telecommunications markets where technological change intensified the complexity and competitiveness of markets, improved the information and choices available to people, widened the geographic scope of markets, and accelerated the pace of change.

A particularly serious problem for regulators was that these changes created a greater potential for competition in some markets than others. After the MFJ, for example, the RBOCs retained "natural" monopoly power for most local exchange services because it still was inefficient for several companies to duplicate ubiquitous telephone lines and facilities in the same local area. Regulators therefore subjected the RBOCs to rate-of-return regulation. This meant, however, that these companies had both the incentive and the ability to increase their profits by using their monopoly control of local facilities to gain economic advantages in more competitive markets (e.g., long distance, information services, and equipment manufacturing). For example, the RBOCs could cross-subsidize, or charge prices lower than actual costs in competitive markets and make up for these losses by inflating the costs they passed on to rate payers in regulated markets. These practices place more efficient competitors at a disadvantage, raise competitors' costs, or even make it impossible for them to survive. As one regulatory expert put it, what happened in connection with the processes that led to the MFJ "was the result of a poisonous synergy created by . . . regulation and monopoly power combined with the provision of competitive services. The outcome was discrimination and cross-subsidization extremely damaging to the competitive process and ultimately to consumers. And, because these same conditions exist today, notwithstanding divestiture, similar anticompetitive activities will happen again if we let them."[1]

Because of the strong incentives for monopolies to abuse their power, and the subtle, invisible nature of business decisions, regulators and courts concluded that the only solution to this problem was the structural separation of monopolies, which would continue to be regulated, from businesses that had greater potential for competition. This was precisely the reasoning behind the MFJ.

The problem for the courts and regulators, of course, was not only to physically separate the RBOCs, whose control of local telephone facilities gave them monopoly power, from long distance, information services, and manufacturing, but also to monitor the transition in order to prevent these companies from using their residual monopoly power to stifle the transition to competition.

OBSTACLES TO THE DEVELOPMENT OF THE INFORMATION HIGHWAY

Despite the attention created by futuristic descriptions of the "superhighway" and interactive information technologies, the future is not as clear or certain as some of these descriptions imply. The natural history of technology suggests a tendency to exaggerate short-term effects and to underestimate the long-term impacts. Since the outcomes of the use of technology are determined by public and private policies and actions, they are not predetermined, and progress is more likely to be measured in decades than years. There are many bottlenecks in these systems which must be overcome. In addition, there are many important technical obstacles to the construction of this infrastructure, which will require the development of interconnected, easily accessible networks to move unprecedented amounts of information. We should note, however, that the challenges in constructing the information infrastructure are probably more political, financial and organizational than technical.

IMPORTANCE OF PROPER SEQUENCES IN THE TRANSITION TO COMPETITION

There is little doubt that the consequences of the MFJ confirmed the validity of competitive theory. There is overwhelming analytical and factual evidence that competition in long distance markets has been a remarkable success. In many states, obsolete regulations have vanished, competition has exploded as hundreds of new firms have entered the market, inflation-adjusted long distance rates have dropped by more than half, technological and product innovations have accelerated, productivity has improved, employment has expanded, and American companies have strengthened their competitive position in global markets.

There also is general agreement that constructing the NII requires the transformation of local and regional telecommunications markets, where competition could do for these markets what it did for long distance. Today, while all customers have at least three choices for long distance service (and most have many more), nobody has more than one choice for basic local telephone service. Clearly, moreover, while technological and market changes have created the potential for competition in these local markets, this potential is largely prospective and these markets remain over 99 percent closed to outside competition.

The MFJ experience demonstrates, however, that the transition to competition must be carefully managed in order to deny the RBOCs the incentive and ability to use their monopoly power to impair competition in long distance, manufacturing, or other markets. Removing the MFJ restraints on the RBOCs in the proper sequence is absolutely essential to this transformation. It can be demonstrated that lifting these restrictions prematurely would create the same problems that led to the MFJ in the first place. On the other hand, the sequence which insists first on authorizing competitive entry along with proper standards and monitoring, followed by a market test to ensure that the ensuing competition is effective before allowing the RBOCs into long distance, could bring the benefits of competition to local and regional telecommunications markets. We would, with this sequence, realize results in higher employment, output, innovation, and economic efficiency. We should note, moreover, that both the negative and positive changes would have economy-wide multiplier effects.

This policy prescription has been confirmed by econometric evidence which shows that the proper sequence—ensuring completion in local networks before removing the constraints—would cause output to grow by $37 billion and employment by 478,000 over ten years. By contrast, prematurely lifting the MFJ restraints on the RBOCs would reduce productivity by making it possible for less efficient RBOC monopolies to use their monopoly power to displace more efficient competitive firms, thereby increasing prices for consumers and restricting output by $24.4 billion and employment by 322,000 over ten years.

Studies that purport to show that removing the MFJ restraints immediately would raise output and employment are based on the unrealistic assumption that monopolists would increase efficiency by entering long distance markets that these analysts assume are not already highly competitive. This is contrary to all credible evidence and logic. Other than their monopoly control over access to end users, it is hard to see what advantage the RBOCs would have in competitive markets. It is, therefore, much more realistic, as well as more compatible with economic principles, to assume that premature elimination of the MFJ restraints would produce inefficiencies in local, regional, and long distance markets. Ignoring the necessity for proper sequencing has short and long term negative economic implications.

In advocating premature relief for the RBOCs, some analysts argue that the long distance market is not competitive because AT&T still accounts for 60 percent of the market and only has two major competitors, MCI and Sprint, which account for an additional 27 percent. However, this argument confuses market share with market power. It is possible that firms with large and declining market shares might have very little market power. The keys are whether there are barriers to entry and whether customers have and exercise a choice to change carriers. By these standards there is little doubt that long distance markets are competitive today. Sixteen million subscribers, an average of 44,000 people a day, switched carriers during 1992.

Unfortunately, some of the proposals before the Congress, while recognizing most of what is required to achieve competitive conditions, would unwisely permit immediate entry by the RBOCs into state and regional long distance markets without any accompanying provision for first allowing competition to develop in bottleneck local markets that today are virtually closed. As noted, opening competitive markets to the RBOCs now would not bring competition to local and regional telecommunications markets. The wrong sequencing of events would allow monopolies to restrict competition instead of enhancing it, thus diminishing productivity, jobs, and national output. Among existing proposals, only the Hollings bill pays enough attention to the proper sequence for lifting the MFJ restrictions. And one of the leading proposals—the Brooks-Dingell bill—while making constructive contributions to the extension and preservation of competition, has some perverse sequences because the RBOCs would be allowed to enter long distance markets before establishing and testing competition and would be allowed into markets where they have the greatest market power, without adequate safeguards. It is hoped that proper sequencing will be included before the various bills to establish telecommunications policy become law.

[1] Testimony of Philip L. Verveer before the Subcommittee on Economic and Commercial Law, Committee on the Judiciary, U.S. House of Representatives, January 28, 1994, p. 6.

IMPORTANCE OF MARKET TESTS FOR COMPETITION

Proper sequencing, including markets tests for competition, is required for two major reasons: (1) the local and regional telecommunications monopolies have both the incentive and the ability to block the transformation to competitive markets and (2) it is difficult, if not practically impossible, for regulators to prevent abuses by hybrid entities operating simultaneously in monopolistic and competitive markets. The kind of abuses that could restrict competition include raising rivals' costs by delaying access to monopolized lines, requiring costly forms of interconnections, discriminatory pricing, and degrading technology; requiring the purchase of unneeded services; and arrangements (like the lack of portability of telephone numbers, and the prevention of the sharing and resale of long distance services within the calling area) that make it difficult for competitors to enter and compete in monopolistic markets. A careful examination of deregulation proposals from the RBOCs suggests that these companies have come to accept such practices as the only way to do business.

A test to determine if a market is competitive would prevent the continuation of these anti-competitive practices and therefore would facilitate the transition to competitive markets. And with regulatory constraints on the monopolistic local exchange carriers, private investments needed to maintain an efficient, open, flexible, responsive and innovative information infrastructure would be encouraged. The minimum essential preconditions of a market test for competition include: removing restrictive state laws; making it possible for consumers to have effective options for long distance and local telephone service; implementing number portability; unbundling network services in order to allow consumers to select only those components they need, as well as to permit providers to compete for these services; establishing real cost-based pricing arrangements, including the imputation of all charges to the local monopoly telephone exchanges that are already being paid by competitive carriers; preventing restrictions on resale and sharing; establishing uniform technical and interconnect standards; providing equal access to conduits and rights of way; permitting seperate interconnections for each unbundled network service; granting alternative providers co-carrier status; and explicitly identifying and fairly implementing a system to allocate universal service costs.

Conditions like these are necessary to ensure the transition to adequate competition, but additional tests must be applied to determine when markets have become adequately competitive. In general, adequate competition exists when consumers have numerous choices, when no firm has enough market power to effectively raise prices without eliciting supply or price responses from actual and potential rivals, and when there are no artificial barriers to entry. However, precise measures would clarify and give greater precision to this definition, creating clear goals for RBOCs and regulators, as well as clear signals for potential investors. Examples of the kinds of measures that might be used to determine when local markets are adequately competitive for the purpose of removing the line-of-business restrictions are the following, proposed by AT&T in response to Senators John Danforth and Daniel Inouye:

1. All legal, regulatory and technical barriers must have been eliminated.

2. Seventy-five percent of the customers served by RBOCs can get telephone service from two or more alternative additional providers.

3. At least 30 percent of customers obtain exchange access service exclusively from an alternate provider.

While there is room for debate on the precise measures used to determine when local markets have become competitive, there is little doubt about the desirability of having such measures.

CONCLUSION

Proper sequencing—authorizing competitive entry, followed by a market test to determine whether effective local competition has developed—would require a willingness to change and compromise by all parties concerned, but the transformation to competition would have enormous benefits for the RBOCs, long distance companies, business and residential consumers, regulators, and, most important, the American public. With these safeguards the NII would establish an advanced, unified information infrastructure, unified by competitive market forces rather than "natural monopoly." This competitive information infrastructure within the framework of fair, transparent, simplified and flexible rules to prevent abuses and encourage innovations and efficiency would have enormous economic, social and political benefits. It is hard to think of anything more important for our nation's future.

Ms. MOLINARI. Mr. Speaker, today's question facing the House is: How can we improve our economic, social, and international footing, without spending taxpayers money, and without hurting any particular industry? I believe the answer is H.R. 3626.

H.R. 3626 is a bill that makes sense, common sense and dollar cents. The common sense in H.R. 3626 points to advances in technology that will improve education, health care, transportation, business, and the environment. The dollar cents reveals 3.6 million new jobs with private industries, not taxpayers, taking the cost while also fostering a competitive edge in markets abroad.

For once, in a long time, industries can agree that H.R. 3626 has benefits for everyone. The multimedia market will have the ability to expand to its fullest potential. This cannot happen until multiple users across the country can interact with each other. Information providers need and welcome the partnerships, new capital, technology, and mass market capabilities that would result from competition. In fact, one hundred of the "Fortune 500" companies have endorsed the bill because they recognize that lower telecommunication costs will increase their own competitiveness.

I support the simple answer that America has been waiting for, H.R. 3626.

Mr. FRANKS of Connecticut. Mr. Speaker, I rise today in support for H.R. 3636 and H.R. 3626, legislation reported out of the Energy and Commerce Committee, on which I serve, and which will lead our Nation's telecommunications industry into the 21st century.

These bills will promote competition and bring new goods and services to consumers by removing the court-imposed restrictions on the Bell operating companies, by opening up the local telephone system to competition and by permitting our telephone companies to offer cable television services.

H.R. 3636 and H.R. 3626 will help our country's economy and will greatly assist in creating jobs for Americans. A study by the independent econometric forecasting firm, the WEFA Group, demonstrated that full competition in the telecommunications industry, including Bell Company relief from restrictions that currently bar them from certain markets and including full competition at the local level, would create 3.6 million new jobs in the United States over the next 10 years in a wide variety of industries and in every State in the Union. In my home State of Connecticut, over 45,000 new jobs over the next 10 years would be created in a fully competitive marketplace.

These measures have a wide range of support from a variety of organizations including senior citizens groups, education associations, labor unions, minority interests, and small business coalitions. These bills reflect years of work by the House Telecommunications Subcommittee and contain compromises to ensure that all competitors are treated fairly and equally.

I urge my colleagues to support both H.R. 3636 and H.R. 3626.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 3626, as amended.

The question was taken.

Mr. PETRI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The Chair announces that this vote will be taken after the next suspension.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan.

There was no objection.

NATIONAL COMMUNICATIONS COMPETITION AND INFORMATION INFRASTRUCTURE ACT OF 1994

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3636) to promote a national communications infrastructure to encourage deployment of advanced communications services through competition, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3636

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Communications Competition and Information Infrastructure Act of 1994".

(b) TABLE OF CONTENTS.—

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