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FEDERAL TELECOMMUNICATIONS LAW:  
A LEGISLATIVE HISTORY OF  
THE TELECOMMUNICATIONS ACT  
OF 1996  
PUB. L. NO. 104-104, 110 STAT. 56 (1996)  
INCLUDING  
THE COMMUNICATIONS DECENCY ACT

**Volume 8**  
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# **INTRODUCTION**

## **AN OVERVIEW OF THE TELECOMMUNICATIONS ACT OF 1996**

The “Telecommunications Act of 1996,” signed into law on February 8, 1996, opens up competition between local telephone companies, long-distance providers, and cable companies; expands the reach of advanced telecommunications services to schools, libraries, and hospitals; and requires the use of the new V-chip technology to enable families to exercise greater control over the television programming that comes into their homes. This Act lays the foundation for the investment and development that will ultimately create a national information superhighway to serve both the private sector and the public interest.

President Clinton noted that the Act will continue the efforts of his administration in ensuring that the American public has access to many different sources of news and information in their communities. The Act increases, from 25 to 35 percent, the cap on the national audience that television stations owned by one person or entity can reach. This cap will prevent a single broadcast group owner from dominating the national media market.

Rates for cable programming services and equipment used solely to receive such services will, in general, be deregulated in about three years. Cable rates will be deregulated more quickly in communities where a phone company offers programming to a comparable number of households, providing effective competition to the cable operator. In such circumstances, consumers will be protected from price hikes because the cable system faces real competition.

This Act also makes it possible for the regional Bell companies to offer long-distance service, provided that, in the judgment of the Federal Communications Commission (FCC), they have opened up their local networks to competitors such as long-distance companies, cable operators, and others. In order to protect the public, the FCC must evaluate any application for entry into the long-distance business in light of its public interest test, which gives the FCC discretion to consider a broad range of issues, such as the adequacy of interconnection arrangements to permit vigorous competition. Furthermore, in deciding whether to grant the application of a regional Bell company to offer long-distance service, the FCC must accord “substantial

weight” to the views of the Attorney General. This special legal standard ensures that the FCC and the courts will accord full weight to the special competition expertise of the Justice Department’s Antitrust Division--especially its expertise in making predictive judgments about the effect that entry by a bell company into long-distance may have on competition in local and long-distance markets.

Title V of the Act is entitled the “Communications Decency Act of 1996.” This section is specifically aimed at curtailing the communication of violent and indecent material. The Act requires new televisions to be outfitted with the V-chip, a measure which President Clinton said, “will empower families to choose the kind of programming suitable for their children.” The V-chip provision relies on the broadcast networks to produce a rating system and to implement the system in a manner compatible with V-chip technology. By relying on the television industry to establish and implement the ratings, the Act serves the interest of the families without infringing upon the First Amendment rights of the television programmers and producers.

President Clinton signed this Act into law in an effort to strengthen the economy, society, families, and democracy. It promotes competition as the key to opening new markets and new opportunities. This Act will enable us to ride safely into the twenty-first century on the information superhighway.

We wish to acknowledge the contribution of Loris Zeppieri, a third year law student, who helped in gathering these materials.

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*April 1997*

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- Doc. No. 172** - Proposed Antitrust Settlement of U.S. v. A.T.&T. - Joint Hearings before the Subcommittee on Telecommunications, Consumer Protection, and Finance of the Committee on Energy and Commerce and the Subcommittee on Monopolies and Commercial Law of the Committee on the Judiciary, House of Representatives, 97th Congress, 2d Session, Serial No. 97-116 and Serial No. 35 (January 26 and 28, 1982).

For *Master Table of Documents* of this set, please refer to *Volume 1*.





# **Document No. 171**



# TELECOMMUNICATIONS ACT OF 1980

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HEARINGS  
BEFORE THE  
SUBCOMMITTEE ON  
MONOPOLIES AND COMMERCIAL LAW  
OF THE  
COMMITTEE ON THE JUDICIARY  
HOUSE OF REPRESENTATIVES  
NINETY-SIXTH CONGRESS  
SECOND SESSION  
ON  
**H.R. 6121**  
TELECOMMUNICATIONS ACT OF 1980

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SEPTEMBER 9 AND 16, 1980

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**Serial No. 69**



Printed for the use of the Committee on the Judiciary

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U.S. GOVERNMENT PRINTING OFFICE  
WASHINGTON: 1981

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# THE TELECOMMUNICATIONS ACT OF 1980

TUESDAY, SEPTEMBER 9, 1980

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON MONOPOLIES AND COMMERCIAL LAW,  
COMMITTEE ON THE JUDICIARY,  
*Washington, D.C.*

The subcommittee met at 1:45 p.m. in room 2141, Rayburn House Office Building, Hon. Peter W. Rodino, Jr. (chairman), presiding. Present: Representatives Rodino, Brooks, Seiberling, Mazzoli, Hughes, Volkmer, Harris, Synar, McClory, and Butler.

Also present: Joseph L. Nellis, general counsel; Daniel Freeman and Warren Grimes, counsel; Joel Ginsburg, assistant counsel; Franklin G. Polk and Charles E. Kern II, associate counsel.

Chairman RODINO. The committee will come to order.

## OPENING STATEMENT OF HON. PETER W. RODINO, JR.

Chairman RODINO. This afternoon, the Subcommittee on Monopolies and Commercial Law meets to hear testimony on the potential antitrust ramifications of H.R. 6121, the Telecommunications Act of 1980.

The subcommittee sought referral of this bill not because we desire to make telecommunications policy. On the contrary, we respect the expertise that the Communications Subcommittee, and the full Commerce Committee, have developed over the years in dealing with this important area. At the same time, there can be no doubt as to the importance of the contribution this subcommittee can make in dealing with questions of antitrust and competition policy for one of our Nation's most vital industries.

Antitrust concerns are not parochial. They lie at the very heart of our free enterprise system, a system designed to enhance and maintain vigorous competition for the benefit of the American consumer and the honest businessman.

Concerns about antitrust policy are all the more relevant because this bill is one which would deregulate much of the telecommunications industry. Under deregulated conditions, competition is essential to both competitors and consumers who may otherwise suffer the abuses of unrestrained monopoly or oligopoly.

This afternoon, the subcommittee will hear testimony from witnesses who will address questions of antitrust policy in two general areas. The first is the potential impact of this proposed legislation on past, present, and future antitrust litigation involving the telecommunications industry. We have two concrete points of reference: The 1956 consent decree resolving an earlier suit brought by the United States against A.T. & T., and the ongoing suit brought by the United States in 1974 against A.T. & T.

(1)



The second area of inquiry for the subcommittee is the competitive framework established by H.R. 6121. Given the existence of a dominant company controlling most of our common-carrier telecommunications network, does H.R. 6121 provide for deregulation in a manner that will protect existing competitors from abuses of economic power? Does the Federal Communications Commission have sufficient authority to control the relationship between the parent corporation and the subsidiary that would be formed under this legislation?

Our subcommittee will be making a record on these important issues. Within the narrow time constraints allotted us, we intend to deal with these issues thoroughly and fairly. At the same time, we will not stand in the way of the House or the Congress with respect to this significant legislation. Indeed, as I have previously stated, I am committed to meeting the October 1 deadline that the Speaker has set for reporting this legislation.

[A copy of H.R. 6121 follows:]

SEPTEMBER 5, 1980

(Showing H.R. 6121, as reported by the Committee on  
Interstate and Foreign Commerce on August 25, 1980)

96TH CONGRESS  
2D SESSION

# H. R. 6121

To amend the Communications Act of 1934 to make certain revisions in the provisions of such Act relating to the regulation of telecommunications activities.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 13, 1979

Mr. VAN DEEBLIN (for himself, Mr. STAGGERS, Mr. MURPHY of New York, Mr. WIRTH, Mr. MARKEY, Mr. MOTT, Mr. SWIFT, Mr. LUKEN, Mr. GOBE, Mr. MATSUI, Mr. BROYHILL, Mr. COLLINS of Texas, Mr. MOORHEAD of California, Mr. MARKS, and Mr. LOEFFLEE) introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

[For text of introduced bill, see copy of bill as introduced on December 13, 1979]

---

## A BILL

To amend the Communications Act of 1934 to make certain revisions in the provisions of such Act relating to the regulation of telecommunications activities.

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

## 1 SHORT TITLE

2 SECTION 1. This Act may be cited as the “Telecommu-  
3 nications Act of 1980”.

4 DECLARATION OF PURPOSES; DEFINITIONS; REGULATORY  
5 AUTHORITY OF COMMISSION

6 SEC. 2. (a) Section 201 of the Communications Act of  
7 1934 (47 U.S.C. 151 et seq.) is amended by striking out the  
8 heading for such section, by striking out the section designa-  
9 tion preceding subsection (a), and by inserting in lieu thereof  
10 the following:

11 “DECLARATION OF PURPOSES

12 “SEC. 201. (a) The Congress hereby declares that it is  
13 the purpose of this title—

14 “(1) to assure that all the people of the Nation  
15 have available, at reasonable and affordable rates, tele-  
16 communications services, facilities, and products which  
17 are reliable, efficient, and diverse, and which promote  
18 the national defense and security and the emergency  
19 preparedness of the Nation; and

20 “(2) to assure that the people, economy, and gen-  
21 eral welfare of the Nation will benefit from continuing  
22 improvements in telecommunications technology.

23 “(b) In achieving the purposes specified in this section,  
24 competition and the private sector shall be relied upon to the  
25 maximum extent possible to determine the availability, vari-

1 ety, quality, and cost of domestic telecommunications serv-  
2 ices, facilities, and products. The Commission shall exercise  
3 regulatory authority, in accordance with the provisions of this  
4 title, only to the extent necessary—

5           “(1) to achieve such purposes;

6           “(2) to assure that residential customers and per-  
7 sons residing in rural areas have access to telecommu-  
8 nications service at reasonable and affordable rates;

9           “(3) to foster a competitive environment;

10           “(4) to ensure the continued vitality of United  
11 States telecommunications enterprises and products in  
12 international markets; and

13           “(5) to carry out the transition to a fully competi-  
14 tive communications industry in accordance with the  
15 provisions of this Act.

16           “(c) In furtherance of the purposes specified in this sec-  
17 tion, and in accordance with the provisions of this Act, the  
18 Commission, and each State commission, shall have authority  
19 to take such action as may be necessary to assure that the  
20 costs of the competitive activities of dominant carriers (in-  
21 cluding affiliated organizations and fully separated subsidiar-  
22 ies of dominant carriers) and other carriers are not borne by  
23 the users of noncompetitive services or facilities of such  
24 carriers.

1       “(d) In furtherance of the purposes specified in this sec-  
2 tion, neither the Commission, nor any State commission,  
3 shall have any authority to take into account revenues de-  
4 rived from activities which are not subject to the regulatory  
5 authority of the Commission under this title, or to the regula-  
6 tory authority of any State commission, in connection with  
7 determinations made by the Commission, or by any State  
8 commission, relating to rates which may be charged by carri-  
9 ers, or allowable rates of return for carriers, for the provision  
10 of telecommunications services which are subject to such reg-  
11 ulatory authority, except that, subject to the provisions of  
12 section 231(e)(7), any State commission (if such State com-  
13 mission was engaged in such practice as of June 1, 1980)  
14 may take into account for ratemaking purposes revenues de-  
15 rived from printed directory advertising and from other  
16 sources customarily used in carrier ratemaking (other than  
17 terminal equipment and terminal devices).

18                                   “DEFINITIONS

19       “SEC. 202. For purposes of this title:

20               “(1) The term ‘affiliated organization’, when used  
21 with reference to a dominant carrier, when used with  
22 reference to any interexchange carrier (for purposes of  
23 section 213(b)), and when used with reference to any  
24 regulated carrier (for purposes of section 254(a)),  
25 means any company or other business organization af-

1       filiated with such carrier, and any subsidiary or other  
2       entity of such carrier (other than a fully separated sub-  
3       subsidiary, and other than any subsidiary or other entity  
4       specified in paragraph (3)(B)).

5               “(2) The term ‘basic telecommunications service’  
6       means that basic two-way switched voice telephone  
7       service which is provided as an interexchange telecom-  
8       munications service or intraexchange telecommunica-  
9       tions service on the date of the enactment of the Tele-  
10       communications Act of 1980 and which is provided on  
11       a universal basis to the general public. Such term in-  
12       cludes any other interexchange telecommunications  
13       service or intraexchange telecommunications service  
14       which the Commission, from time to time, determines  
15       by rule is recognized as an essential part of an efficient  
16       nationwide system of basic telecommunications.

17               “(3) The term ‘dominant carrier’ means any inter-  
18       exchange carrier classified as a dominant carrier by the  
19       Commission under section 213(a). Such term in-  
20       cludes—

21                       “(A) any person who owns or controls such  
22       carrier; and

23                       “(B) any subsidiary or other entity of such  
24       carrier or such person (other than any fully sepa-  
25       rated subsidiary), to the extent that any such sub-

1 . . . subsidiary or other entity provides interexchange  
2 telecommunications service or intraexchange tele-  
3 communications service.

4 “(4) The term ‘fully separated subsidiary’ means  
5 any fully separated subsidiary established by a domi-  
6 nant carrier or by any other regulated carrier under  
7 section 214(a)(2)(A), or by a dominant carrier or any  
8 affiliated organization under section 214(a)(3)(A)(ii) or  
9 under section 218(b)(1)(B).

10 “(5) The term ‘interconnection’ means any con-  
11 nection established between a carrier and the equip-  
12 ment or facilities of any customer of such carrier, or  
13 between 2 or more carriers, for the purpose of facilitat-  
14 ing the transmission or retransmission of telecommuni-  
15 cations.

16 “(6) The term ‘interexchange carrier’ means any  
17 carrier which provides interexchange telecommunica-  
18 tions service to the public.

19 “(7) The term ‘interexchange telecommunications  
20 service’ means the provision by a carrier of telecommu-  
21 nications service between local exchange areas. Such  
22 term includes the local distribution of interexchange  
23 telecommunications service by any means (including  
24 telecommunications facilities furnished by intraex-  
25 change carriers).

1           “(8) The term ‘international carrier’ means—

2                   “(A) any carrier which is engaged solely in  
3           providing telecommunications service between 1  
4           or more local exchange areas and any point in a  
5           foreign nation; and

6                   “(B) any carrier which provides telecommu-  
7           nications service specified in subparagraph (A)  
8           and also provides other telecommunications serv-  
9           ice, except that such carrier shall be considered’  
10          to be an international carrier only to the extent such  
11          carrier provides telecommunications service speci-  
12          fied in subparagraph (A).

13           “(9) The term ‘intraexchange carrier’ means any  
14          carrier which provides intraexchange telecommunica-  
15          tions service to the public.

16           “(10) The term ‘intraexchange telecommunica-  
17          tions service’ means the provision of telecommunica-  
18          tions service by a carrier between points within a  
19          single local exchange area.

20           “(11) The term ‘local exchange area’ means any  
21          geographical service area designated as a local ex-  
22          change area by a State commission (or by the transi-  
23          tional joint board) in accordance with section 211(d)(2).



1           “(12) The term ‘National Telecommunications  
2 Pool’ means the National Telecommunications Pool es-  
3 tablished in section 233(d)(1).

4           “(13) The term ‘private telecommunications  
5 system’ means a private network or facility utilized by  
6 any person (other than a carrier) solely for the provi-  
7 sion of any telecommunications service.

8           “(14) The term ‘regulated carrier’ means—

9                   “(A) any intraexchange carrier which is sub-  
10 ject to the regulatory authority of the Commission  
11 under section 211(a)(3);

12                   “(B) any interexchange carrier which is sub-  
13 ject to the regulatory authority of the Commission  
14 under section 212(a)(3), section 212(a)(4), section  
15 212(a)(5), or section 214(b); and

16                   “(C) except for purposes of section 216(a)(3),  
17 any international carrier.

18           “(15) The term ‘service, facility, or product inci-  
19 dental to telecommunications’ includes, but is not limit-  
20 ed to, data processing and information services (other  
21 than any mass media service or mass media product),  
22 data processing equipment, computer software, and ter-  
23 minal equipment or terminal devices. Such term also  
24 includes any service, facility, or product designated by  
25 the Commission in accordance with section 211(a)(8).

1 For purposes of this paragraph, the term 'mass media'  
2 has the meaning given it in section 218(e)(3).

3 "(16) The term 'standard metropolitan statistical  
4 area' means the area in and around a city of 50,000  
5 inhabitants or more, as defined by the Secretary of  
6 Commerce.

7 "(17) The term 'telecommunications service'  
8 means a service which provides for the transmission or  
9 retransmission of telecommunications and which may  
10 perform circuit or message switching, network control  
11 and routing, and internal network signal processing  
12 functions related to such switching, control, and rout-  
13 ing. Such term does not include the provision of termi-  
14 nal equipment or terminal devices.

15 "(18) The term 'transitional joint board' means  
16 the transitional joint board established under section  
17 231(a).

18 "PART A—REGULATORY AUTHORITY OF COMMISSION

19 "SCOPE OF REGULATORY AUTHORITY OF COMMISSION

20 "SEC. 211. (a) The Commission—

21 "(1) shall have authority to carry out the provi-  
22 sions of this title with respect to—

23 "(A) any carrier which furnishes telecommu-  
24 nications services or makes available telecommu-

1           nications facilities, or both, between local ex-  
2           change areas; and

3           “(B) any dominant carrier, and any affiliated  
4           organization or fully separated subsidiary of a  
5           dominant carrier;

6           “(2) shall have authority to establish and adminis-  
7           ter rules and regulations applicable to—

8           “(A) the rates, terms, and conditions for the  
9           use of intraexchange telecommunications services  
10          and facilities by interexchange carriers and other  
11          customers; and

12          “(B) the facilities of intraexchange carriers, if  
13          such facilities are used as part of any network for  
14          the provision of interexchange telecommunications  
15          service and are not used primarily for the provi-  
16          sion of intraexchange telecommunications service,  
17          except that nothing in this subparagraph shall be  
18          construed to authorize the Commission to estab-  
19          lish rates for intraexchange telecommunications  
20          service;

21          “(3) subject to the provisions of subsection (e),  
22          shall provide for the regulation of the provision of basic  
23          telecommunications service by any intraexchange carri-  
24          er in order to assure that any such carrier furnishes  
25          such service at reasonable and affordable rates if a rea-

1 sonable request is made for such service and that such  
2 carrier does not discriminate with respect to the rates,  
3 terms, and conditions for such service;

4 “(4) shall review and shall approve, disapprove,  
5 or modify requests for the pooling of revenues by inter-  
6 exchange carriers or intraexchange carriers in accord-  
7 ance with subsection (c);

8 “(5) subject to the provisions of section 252(b)(4),  
9 shall exercise all the powers, and discharge all the re-  
10 sponsibilities, of the transitional joint board, upon the  
11 termination of the transitional joint board in accordance  
12 with section 231(i);

13 “(6) shall not have any authority to regulate the  
14 provision of terminal equipment or terminal devices—

15 “(A) except to the extent necessary to carry  
16 out the functions of the Commission under section  
17 201(c), section 214(a), section 214(c), section  
18 216(b)(2)(B), section 216(d)(3)(B), section 218,  
19 section 219, section 231(a)(3), section 233(b)(5),  
20 and section 254; and

21 “(B) except that the Commission shall have  
22 authority to establish by rule (in accordance with  
23 subsection (g)) uniform, minimum, technical stand-  
24 ards applicable to interconnection of the telecom-  
25 munications facilities of any carrier with any ter-

1           minal equipment or terminal device which is  
2           owned or leased by a customer of such carrier, for  
3           the purpose of ensuring the fostering of a compet-  
4           itive environment and for the purpose of ensuring  
5           that any such terminal equipment or terminal  
6           device will not cause—

7                   “(i) electrical hazards to personnel of  
8                   the carrier involved;

9                   “(ii) damage to the equipment or facili-  
10                  ties of such carrier;

11                  “(iii) any malfunction of the billing  
12                  equipment of such carrier; or

13                  “(iv) any degradation of service to other  
14                  customers of such carrier;

15                  “(7) shall not have any authority to regulate the  
16                  acquisition, processing, or marketing of information or  
17                  any other data processing service or product, including  
18                  any remote access data processing service which uses  
19                  telecommunications in the provision of such service,  
20                  other than to the extent such regulation may be re-  
21                  quired under section 201(c), section 214, section 218,  
22                  section 219, section 233(b)(5), or section 254; and

23                  “(8) shall have authority to determine in disputed  
24                  cases whether any service, facility, or product is inci-  
25                  dental to telecommunications.

1       “(b) The Commission, in establishing or approving rates  
2 under subsection (a)(2)(A), shall be bound by the formula es-  
3 tablished and maintained by the transitional joint board under  
4 section 231(e)(3) for purposes of ensuring the availability of  
5 the amount of funds necessary for the operation of the Na-  
6 tional Telecommunications Pool.

7       “(c)(1) Beginning on the date schedules of fees take  
8 effect under section 233(c)(3)(A), the Commission shall  
9 review, and shall approve, disapprove, or modify, any request  
10 submitted to the Commission—

11               “(A) by interexchange carriers for the pooling of  
12 net revenues associated solely with the provision of in-  
13 terexchange telecommunications service (after the pay-  
14 ment of intraexchange access fees), except that no re-  
15 quest may be made for the joint pooling of revenues  
16 associated with—

17                       “(i) the provision of basic telecommunications  
18 service and other types of interexchange telecom-  
19 munications service; or

20                       “(ii) the provision of interexchange telecom-  
21 munications service which is subject to the regu-  
22 latory authority of the Commission under this title  
23 or to the regulatory authority of any State com-  
24 mission, and interexchange telecommunications  
25 service which is not subject to such regulation; or

1           “(B) by intraexchange carriers for the pooling of  
2 revenues derived from intraexchange access fees under  
3 section 233.

4           “(2) The Commission shall approve any request submit-  
5 ted under paragraph (1) if the Commission determines that  
6 the pooling of revenues proposed in such request—

7           “(A) is necessary to maintain the availability of  
8 basic telecommunications service or to maintain rea-  
9 sonable and affordable access to facilities for the provi-  
10 sion of interexchange telecommunications service;

11           “(B) in the case of a request submitted under  
12 paragraph (1)(A), is necessary to defray those costs of  
13 providing interexchange telecommunications service  
14 which are not addressed in the establishment of in-  
15 traexchange access fees under section 233;

16           “(C) is consistent with the purposes of this Act;  
17 and

18           “(D) is justified by circumstances prevailing at the  
19 time such request is submitted to the Commission.

20           “(3) The Commission, acting upon its own motion or  
21 upon the request of any person, shall have authority to  
22 review and modify any determination made by the Commis-  
23 sion under this subsection at any time after the end of the 1-  
24 year period following the date of such determination.

1       “(d)(1) Except as otherwise provided in this title, all  
2 regulation of intraexchange telecommunications service pro-  
3 vided by carriers is reserved to the States, except that no  
4 State shall have any authority—

5               “(A) to regulate the provision of terminal equip-  
6 ment or terminal devices (other than to the extent such  
7 regulation may be required under section 201(c), sec-  
8 tion 219, section 231(a)(3), or section 233(b)(5)); or

9               “(B) to regulate the acquisition, processing, or  
10 marketing of information or any other data processing  
11 service or product, including any remote access data  
12 processing service which uses telecommunications in  
13 the provision of such service (other than to the extent  
14 such regulation may be required under section 201(c),  
15 section 214, section 218, section 219, section  
16 233(b)(5), or section 254).

17       “(2) Not later than 1 year after the date of the enact-  
18 ment of the Telecommunications Act of 1980, the State com-  
19 mission of each State shall establish boundaries for local ex-  
20 change areas in such State. In any case in which a State  
21 commission fails to establish such boundaries before the end  
22 of such 1-year period, the transitional joint board shall have  
23 authority to establish such boundaries. Subject to the authori-  
24 ty of the Commission under this title, the State shall exercise  
25 exclusive regulatory authority with respect to any telecom-



1 munications service provided by a carrier to the extent such  
2 service originates and terminates in any such local exchange  
3 area.

4 “(3)(A) Subject to subparagraph (B)—

5 “(i) the boundaries of any local exchange area  
6 shall be located entirely within 1 State; and

7 “(ii) no local exchange area which includes part  
8 or all of 1 standard metropolitan statistical area may  
9 include any part of any other standard metropolitan  
10 statistical area.

11 “(B) The transitional joint board shall have authority to  
12 make minor modifications in the requirements established in  
13 subparagraph (A) if any such modification is necessary to  
14 carry out the purposes of this Act.

15 “(4) A State commission may not make a change in the  
16 boundaries of any local exchange area unless such change is  
17 approved by the transitional joint board. In any case in which  
18 any such change proposed by a State commission is consist-  
19 ent with the requirements of this subsection, such change  
20 shall be considered to be approved by the transitional joint  
21 board if the transitional joint board fails to take any action  
22 with respect to such proposed change before the end of the  
23 60-day period after the submission of such proposed change  
24 to the transitional joint board.

1       “(5) The Commission shall have the authority to dele-  
2 gate to State commissions the authority to certify intraex-  
3 change access fees for the use of intraexchange telecommuni-  
4 cations services or facilities by interexchange carriers or  
5 other customers. In any case in which the Commission makes  
6 such a delegation, the transitional joint board shall establish,  
7 and each State commission shall comply with, rules and pro-  
8 cedures applicable to—

9               “(A) the jurisdictional allocation of plant and op-  
10 erating expenses; and

11               “(B) the allowable rate of return for plant alloca-  
12 tions to the origination and termination of interex-  
13 change telecommunications service.

14       “(6) In any case in which charges for the use of the  
15 facilities of intraexchange carriers are imposed on a usage  
16 basis, the provisions of this title shall not be construed to  
17 restrict the authority of State commissions to include in such  
18 charges any use of the intraexchange telecommunications  
19 services or facilities involved which, at the option of the sub-  
20 scriber involved, originates or terminates interexchange tele-  
21 communications service. Such charges shall not discriminate  
22 between the use of such facilities for interexchange telecom-  
23 munications service and intraexchange telecommunications  
24 service.

1       “(e) In any case in which the Commission exercises its  
2 authority to provide for the regulation of the provision of  
3 basic telecommunications service by any intraexchange carri-  
4 er under subsection (a)(3), such authority of the Commission  
5 shall be limited to the regulation of the provision of such  
6 service. The provisions of subsection (a)(3) shall not be con-  
7 strued to establish any authority under which the Commis-  
8 sion may regulate any service provided by such carrier other  
9 than basic telecommunications service.

10       “(f) The Commission shall not have any authority to  
11 include in any license issued by the Commission under title  
12 III any term or condition which is inconsistent with any limi-  
13 tation imposed upon the regulatory authority of the Commis-  
14 sion in this title.

15       “(g) The Commission, in exercising its authority under  
16 subsection (a)(6)(B), shall, to the extent consistent with the  
17 public convenience and necessity, and taking into account  
18 continuing technological innovation, consider technical stand-  
19 ards adopted by appropriate international standards organiza-  
20 tions.

21       “REGULATION OF INTEREXCHANGE CARRIERS

22       “SEC. 212. (a) Notwithstanding any other provision of  
23 this title, no interexchange carrier, other than any carrier  
24 classified as a dominant carrier by the Commission and any  
25 other regulated carrier (other than a regulated carrier speci-

1 fied in section 202(14)(A)), shall be subject to any regulatory  
2 authority of the Commission under this title, except that the  
3 Commission—

4           “(1) shall have authority to require the payment  
5 of an intraexchange access fee by any interexchange  
6 carrier in accordance with section 233 for interconnec-  
7 tion with the facilities of any intraexchange carrier;

8           “(2) shall have authority to establish standards,  
9 and take other appropriate action, to promote the na-  
10 tional defense and security and the emergency prepar-  
11 edness of the Nation;

12           “(3) subject to the provisions of subsection (b),  
13 shall require, and provide for the regulation of, the  
14 provision of basic telecommunications service by any  
15 interexchange carrier in order to assure that any such  
16 carrier furnishes such service at reasonable and affor-  
17 dable rates if a reasonable request is made for such  
18 service and that such carrier does not discriminate with  
19 respect to the rates, terms, and conditions for such  
20 service;

21           “(4) shall have authority to regulate any telecom-  
22 munications service (which is subject to the regulatory  
23 authority of the Commission under this title) which is  
24 offered by any interexchange carrier in direct associ-  
25 ation with a dominant carrier; and

1           “(5) subject to the provisions of section 215(a)(3),  
2 shall have authority to regulate any interexchange car-  
3 rier (other than any interexchange carrier subject to  
4 the regulatory authority of the Commission under para-  
5 graph (3) or paragraph (4)) to the extent that such car-  
6 rier is offering any service which—

7           “(A) is defined as an interexchange telecom-  
8 munications service under this Act, as amended  
9 by the Telecommunications Act of 1980; and

10           “(B)(i) is regulated by any State commission,  
11 but is not also provided by such carrier under  
12 tariff on file with the Commission, on the day  
13 before the date of the enactment of the Telecom-  
14 munications Act of 1980; or

15           “(ii) is provided under tariff on file with the  
16 Commission on the day before the date of the en-  
17 actment of the Telecommunications Act of 1980.

18           “(b) In any case in which the Commission exercises its  
19 authority to provide for the regulation of the provision of  
20 basic telecommunications service by any interexchange carri-  
21 er under subsection (a)(3), such authority of the Commission  
22 shall be limited to the regulation of the provision of such  
23 service. The provisions of subsection (a)(3) shall not be con-  
24 strued to establish any authority under which the Commis-

1 sion may regulate any service provided by such carrier other  
2 than basic telecommunications service.

3 "CLASSIFICATION OF CARRIERS

4 "SEC. 213. (a) The Commission, in accordance with the  
5 provisions of subsection (b), shall classify interexchange carri-  
6 ers according to whether each such carrier is a dominant  
7 carrier.

8 "(b) The Commission shall classify an interexchange  
9 carrier as a dominant carrier if the Commission determines  
10 that such interexchange carrier (through its own activities  
11 and through joint activities with any affiliated organization  
12 and any fully separated subsidiary of such carrier)—

13 "(1) furnishes telecommunications services or  
14 facilities in a substantial percentage of the total  
15 number of markets or submarkets for telecommunica-  
16 tions services or facilities; and

17 "(2) has the ability, in a substantial percentage of  
18 such markets or submarkets, to raise or lower prices  
19 for such services (or for the use of such facilities) with-  
20 out significantly affecting the extent to which its cus-  
21 tomers rely upon its services or facilities, as a result of  
22 the absence of comparable alternative services or facili-  
23 ties offered by unaffiliated persons in such markets or  
24 submarkets.

1       “(c) Any person, including any Federal agency, may re-  
2 quest the Commission to initiate proceedings for the classifi-  
3 cation of any interexchange carrier under subsection (a), and  
4 may petition the Commission to review the classification of  
5 any interexchange carrier made by the Commission under  
6 subsection (a).

7       “DEREGULATION OF CERTAIN SERVICE OFFERINGS;  
8               SEPARATE SUBSIDIARY REQUIREMENTS

9       “SEC. 214. (a)(1) No dominant carrier shall be subject  
10 to any regulatory authority of the Commission under this  
11 title—

12           “(A) other than any authority exercised by the  
13 Commission under this title which is applicable to all  
14 carriers;

15           “(B) other than any authority of the Commission  
16 under this title which is applicable to fully separated  
17 subsidiaries; and

18           “(C) except as otherwise provided in this title;  
19 in connection with the offering by such dominant carrier of  
20 any telecommunications service or class of telecommunica-  
21 tions services (other than basic telecommunications service)  
22 in a particular market or submarket if such dominant carrier  
23 complies with the provisions of paragraph (2).

24       “(2) A dominant carrier may offer any telecommunica-  
25 tions service or class of telecommunications services (other

1 than basic telecommunications service) in a particular market  
2 or submarket under paragraph (1) if such dominant carrier—

3 — “(A) establishes 1 or more fully separated subsid-  
4 iaries in accordance with this section and section 219  
5 to offer such service or class of services in such market  
6 or submarket; and

7 “(B) utilizes, in connection with the offering of  
8 such service or class of services, a cost accounting  
9 system which carries out the requirements established  
10 in section 219(d) by ensuring that the costs of any such  
11 fully separated subsidiary which relate to the offering  
12 of such service or class of services (including any such  
13 costs which are incurred before the date of the enact-  
14 ment of the Telecommunications Act of 1980) are not  
15 subsidized by revenues of such dominant carrier from  
16 the provision of telecommunications services, facilities,  
17 or products which are subject to the regulatory author-  
18 ity of the Commission under this title or to the regula-  
19 tory authority of any State commission.

20 “(3)(A) In the case of any telecommunications service,  
21 facility, or product, or any service, facility, or product inci-  
22 dental to telecommunications, which a dominant carrier or  
23 any affiliated organization may provide in accordance with  
24 section 218, if such dominant carrier or affiliated organiza-  
25 tion ceases to be subject to the applicable terms and condi-



1 tions of the consent judgment or decree specified in section  
2 218(a) which are affected by the provisions of section 218,  
3 then such dominant carrier and any affiliated organization  
4 shall engage in the offering of such service, facility, or prod-  
5 uct only—

6 “(i) in a manner which complies with the require-  
7 ments of paragraph (2)(B); and

8 “(ii) through the establishment of 1 or more fully  
9 separated subsidiaries in accordance with this section  
10 and section 219.

11 “(B) The offering of such service, facility, or product  
12 shall not be subject to any other regulatory authority of the  
13 Commission under this title or to the regulatory authority of  
14 any State commission, except that such offering shall be sub-  
15 ject to—

16 “(i) that regulatory authority of the Commission  
17 which is applicable to all carriers; and

18 “(ii) the requirements applicable to fully separated  
19 subsidiaries.

20 “(4) Upon the establishment by the Commission of the  
21 system of accounting methods, procedures, and techniques  
22 which is required in section 254, the requirements of para-  
23 graph (2)(B) shall be met only through the maintenance of  
24 such system by the dominant carrier and any affiliated orga-  
25 nization involved (or by any other interexchange carrier, in

1 the case of an assertion by the Commission of its regulatory  
2 authority under subsection (b)(1) with respect to such  
3 carrier).

4 “(b)(1) In any case in which any amendment made to  
5 this Act by the Telecommunications Act of 1980, or any  
6 action taken by the Commission under this title, has the  
7 effect of eliminating any regulatory authority of the Commis-  
8 sion under this title with respect to the offering of any tele-  
9 communications service or facility, or any class of telecom-  
10 munications services or facilities, in a particular market or  
11 submarket by any carrier, the Commission shall have author-  
12 ity to assert such regulatory authority through the imposition  
13 of rules and requirements applicable to any dominant carrier  
14 or any other interexchange carrier with respect to the contin-  
15 ued offering of such service or facility, or such class of serv-  
16 ices or facilities, in such market or submarket if the Commis-  
17 sion determines that—

18 “(A) effective competition does not or will not  
19 exist in such market or submarket; or

20 “(B) the imposition of such rules and requirements  
21 by the Commission is necessary to serve the public  
22 convenience and necessity.

23 “(2) In any case in which the Commission asserts its  
24 regulatory authority through the imposition of rules and re-  
25 quirements upon any interexchange carrier (other than a

1 dominant carrier) under paragraph (1), the Commission shall  
2 have authority to apply any of the requirements and other  
3 provisions of this title which specifically apply to dominant  
4 carriers to such interexchange carrier, to the extent neces-  
5 sary to carry out the purposes of this subsection.

6       “(3) The Commission may act under paragraph (1) upon  
7 its own motion or upon the motion of any person. Any such  
8 action by the Commission may be taken only after notice and  
9 opportunity for a hearing. In any proceeding under paragraph  
10 (1), the burden of proof with respect to the findings required  
11 in subparagraph (A) and subparagraph (B) of paragraph (1)  
12 shall be upon the Commission, or upon the petitioner in such  
13 proceeding in any case in which the Commission is acting  
14 upon the motion of such petitioner.

15       “(4)(A) The Commission may exercise the authority  
16 specified in paragraph (1), without making the determinations  
17 required in paragraph (1), with respect to the continued offer-  
18 ing of any telecommunications service or facility, or any class  
19 of telecommunications services or facilities, in a particular  
20 market or submarket by any carrier, after notice and oppor-  
21 tunity for an informal hearing, if the Commission determines  
22 that—

23               “(i)(I) there is an imminent risk that such service  
24 or facility, or such class of services or facilities, will  
25 cease to be available in such market or submarket; or

1           “(I) there is reasonable cause to believe that, as  
2           the result of any violation of this Act committed by a  
3           fully separated subsidiary, there is an imminent risk  
4           that a carrier will not be able to continue to engage in  
5           the offering of such service or facility, or such class of  
6           services or facilities, in such market or submarket; and

7           “(ii) any such risk will be reduced or eliminated  
8           by the exercise of such authority by the Commission.

9           “(B) In any proceeding to review any action taken by  
10          the Commission under paragraph (1) which is based upon a  
11          determination made by the Commission under subparagraph  
12          (A), the provisions of section 706(2)(E) of title 5, United  
13          States Code, shall apply.

14          “(C) If the Commission exercises the authority specified  
15          in paragraph (1), after making a determination under subpar-  
16          agraph (A), then the Commission may exercise such au-  
17          thority for a period of not more than 1 year after the date on  
18          which such determination becomes final.

19          “(e)(1) For purposes of this section and section 218, a  
20          subsidiary of a dominant carrier or of any affiliated organiza-  
21          tion shall be considered to be a fully separated subsidiary if  
22          such dominant carrier or affiliated organization complies with  
23          the requirements established in section 219 and if such  
24          subsidiary—

1           “(A) is owned or controlled by, or under common  
2 ownership or control with, such dominant carrier or  
3 any affiliated organization;

4           “(B) does not have more than 1 member of the  
5 board of directors of such subsidiary who also is a  
6 member of the board of directors of such dominant car-  
7 rier or any affiliated organization, or who also is an of-  
8 ficer or employee of such dominant carrier or any affili-  
9 ated organization, and does not have any officers or  
10 employees who also serve as officers or employees of  
11 such dominant carrier or any affiliated organization;

12           “(C) does not have less than 5 members serving  
13 on the board of directors of such subsidiary;

14           “(D)(i) maintains books, records, and accounts  
15 which are separate from books, records, and accounts  
16 maintained by such dominant carrier or any affiliated  
17 organization, and which identify any conduct of busi-  
18 ness specified in section 219(a)(1) with such dominant  
19 carrier and any affiliated organization; and

20           “(ii) in any case in which such subsidiary is not a  
21 publicly held corporation, prepares financial statements  
22 in a manner which is consistent with Federal financial  
23 reporting requirements applicable to publicly held cor-  
24 porations, except that the provisions of this clause shall  
25 not be construed (I) to subject such subsidiary to any

1 filing requirements which are applicable to publicly  
2 held corporations under such Federal financial report-  
3 ing requirements; or (II) to affect the manner in which  
4 such subsidiary is permitted to file returns for Federal  
5 income tax purposes;

6 “(E) does not have a financial structure in  
7 common with such dominant carrier or any affiliated  
8 organization;

9 “(F) does not own any facilities or other property  
10 in common with such dominant carrier or any affiliated  
11 organization; and

12 “(G) consistent with the provisions of section 219,  
13 carries out directly (or through unaffiliated persons or  
14 any other fully separated subsidiary) its own market-  
15 ing, sales, maintenance, operations, manufacturing, de-  
16 velopment, and applied research relating to services,  
17 facilities, and products offered by such subsidiary,  
18 except that any institutional advertising carried out by  
19 such dominant carrier or any affiliated organization  
20 which is not specifically related to any service, facility,  
21 or product shall not be considered to be marketing car-  
22 ried out in common with the fully separated subsidiary.

23 “(2)(A) Except as provided in subparagraph (B) and  
24 subparagraph (D), if the Commission determines that—

1           “(i) any fully separated subsidiary fails to comply  
2           with any requirement established in paragraph (1) or in  
3           section 219;

4           “(ii) the dominant carrier involved fails to comply  
5           with any requirement established in section 219, and  
6           such failure to comply affects the activities of such  
7           fully separated subsidiary; or

8           “(iii) such dominant carrier, or any affiliated orga-  
9           nization, conducts business with such fully separated  
10          subsidiary in a manner which violates section 219;

11 then the Commission (in addition to exercising any other re-  
12 medial authority available to the Commission under this Act)  
13 may provide that any offering by such fully separated subsidi-  
14 ary of any telecommunications service, facility, or product, or  
15 any class of telecommunications services, facilities, or prod-  
16 ucts, shall be subject to the regulatory authority of the Com-  
17 mission under this title.

18          “(B) If—

19           “(i) any failure of a fully separated subsidiary to  
20           comply with any requirement established in paragraph  
21           (1) or in section 219 relates only to the offering of a  
22           specific telecommunications service, facility, or product,  
23           or a specific class of telecommunications services, facil-  
24           ities, or products;

1           “(ii) any failure of the dominant carrier involved  
2           to comply with any requirement established in section  
3           219, which affects the activities of such fully separated  
4           subsidiary, relates only to the offering of a specific  
5           telecommunications service, facility, or product, or a  
6           specific class of telecommunications services, facilities,  
7           or products; or

8           “(iii) the Commission determines that a dominant  
9           carrier or any affiliated organization fails to comply  
10          with the requirements of section 219 with respect to  
11          the offering of a specific telecommunications service,  
12          facility, or product, or a specific class of telecommuni-  
13          cations services, facilities, or products;  
14          then the Commission (in addition to exercising any other re-  
15          medial authority available to the Commission under this Act)  
16          may provide that any offering by such fully separated subsidi-  
17          ary of the specific telecommunications service, facility, or  
18          product, or the specific class of telecommunications services,  
19          facilities, or products, shall be subject to the regulatory au-  
20          thority of the Commission under this title.

21          “(C) Any offering by a fully separated subsidiary which  
22          is made subject to the regulatory authority of the Commis-  
23          sion pursuant to a determination made by the Commission  
24          under this paragraph shall continue to be subject to such reg-  
25          ulatory authority until the Commission determines that there



1 no longer exists a failure to comply with any requirement  
2 established in paragraph (1) or in section 219.

3 “(D) In any case in which a fully separated subsidiary  
4 offers any service, facility, or product incidental to telecom-  
5 munications and—

6 “(i) such fully separated subsidiary fails to comply  
7 with any requirement established in paragraph (1) or in  
8 section 219;

9 “(ii) the dominant carrier involved fails to comply  
10 with any requirement established in section 219, and  
11 such failure to comply affects the activities of such  
12 fully separated subsidiary; or

13 “(iii) such dominant carrier, or any affiliated orga-  
14 nization, conducts business with such fully separated  
15 subsidiary in a manner which violates section 219;

16 the Commission (in addition to exercising any other remedial  
17 authority available to the Commission under this Act) shall  
18 exercise the remedial authority established in subparagraph  
19 (E).

20 “(E)(i) In the case of any failure to comply or violation  
21 specified in subparagraph (D), the Commission shall—

22 “(I) require the fully separated subsidiary involved  
23 to cease the offering of the service, facility, or product  
24 involved until the Commission determines that there no

1 longer exists a failure to comply with, or a violation of,  
2 the requirement involved; or

3 “(II) assess a forfeiture penalty of not more than  
4 \$500,000 against the dominant carrier, affiliated orga-  
5 nization, or fully separated subsidiary, as the case may  
6 be.

7 The penalty established in subclause (II) may be in addition  
8 to, or in lieu of, the remedy established in subclause (I), at  
9 the discretion of the Commission.

10 “(ii) In any case in which a dominant carrier, affiliated  
11 organization, or fully separated subsidiary is required to pay  
12 a forfeiture penalty under clause (i)(II), no deduction shall be  
13 allowed under subsection (a) of section 162 of the Internal  
14 Revenue Code of 1954 (relating to trade or business ex-  
15 penses) for the amount of such penalty.

16 “(F)(i) The Commission shall include in each annual  
17 report to the Congress made by the Commission under sec-  
18 tion 4(k) a detailed statement of any enforcement action  
19 taken by the Commission to carry out this paragraph during  
20 the year involved.

21 “(ii) The Commission shall conduct a study for the pur-  
22 pose of determining whether legislation authorizing the Com-  
23 mission to establish requirements under this paragraph relat-  
24 ing to the structure or organization of dominant carriers, af-  
25 filiated organizations, and fully separated subsidiaries is nec-

1 essary to enable the Commission to carry out the purposes of  
2 this paragraph. The Commission shall include its findings and  
3 recommendations resulting from such study in the annual  
4 report made by the Commission under section 4(k) for the 5th  
5 year following the year in which the fully separated subsidi-  
6 ary initially established by a dominant carrier under subsec-  
7 tion (a) commences the offering of services, facilities, or prod-  
8 ucts.

9 “(d)(1) For purposes of this subsection:

10 “(A) The term ‘employee’ means any employee of  
11 a dominant carrier or affiliated organization.

12 “(B) The term ‘regular employee’ means any full-  
13 time or part-time employee whose employment is ex-  
14 pected to be permanent and who is so classified as a  
15 regular employee.

16 “(C) The term ‘transferred employee’ means any  
17 employee transferred to a fully separated subsidiary by  
18 a dominant carrier or by any affiliated organization.

19 “(2) If a dominant carrier or any affiliated organization  
20 transfers an employee to a fully separated subsidiary, then  
21 such transferred employee shall not be deprived of his em-  
22 ployment, salary or wages, or seniority rights during the 5-  
23 year period following the date of such transfer. The require-  
24 ments of this paragraph shall continue to apply in any case in  
25 which the fully separated subsidiary retransfers such trans-

1 ferred employee to the dominant carrier or to any affiliated  
2 organization, except that any such retransfer shall not have  
3 the effect of extending the 5-year period specified in the pre-  
4 ceding sentence.

5 “(3)(A) A transferred employee shall be entitled to re-  
6 ceive payment (in addition to his regular salary or wages)  
7 from the fully separated subsidiary to which he is transferred  
8 for reasonable travel expenses and reasonable moving ex-  
9 penses incurred by him or any of his dependents if—

10 “(i) such transferred employee changes his domi-  
11 cile as a result of such transfer; and

12 “(ii) the distance between the new work location  
13 of such transferred employee and the former domicile  
14 of such transferred employee exceeds the distance be-  
15 tween the former work place of such transferred em-  
16 ployee and such former domicile by 35 miles or more.

17 “(B) If a collective bargaining agreement applicable to a  
18 transferred employee provides transfer benefits which differ  
19 from the benefits available to such transferred employee  
20 under subparagraph (A), then such transferred employee may  
21 select the benefits which shall apply. Such selection shall be  
22 made through notice to the dominant carrier or any affiliated  
23 organization involved before the end of the 10-day period fol-  
24 lowing the date on which such transferred employee receives  
25 notice of his transfer to a fully separated subsidiary. If such

1 transferred employee does not furnish such notice before the  
2 end of such 10-day period, then benefits under the collective  
3 bargaining agreement shall apply.

4       “(4) Any pension benefits, health or disability benefits,  
5 death benefits, or insurance benefits to which a transferred  
6 employee is entitled shall not be restricted, limited, or re-  
7 duced as a result of his transfer to a fully separated subsidi-  
8 ary, except that the requirements of this paragraph may be  
9 superseded by the terms of any collective bargaining agree-  
10 ment between such fully separated subsidiary and any labor  
11 organization representing the employees of such fully sepa-  
12 rated subsidiary.

13       “(5)(A) Except as provided in subparagraph (B), any  
14 collective bargaining agreement between a dominant carrier,  
15 or any affiliated organization, and any labor organization rep-  
16 resenting the employees of such dominant carrier or affiliated  
17 organization shall continue to apply to any transferred em-  
18 ployee during the complete term of such agreement.

19       “(B) A fully separated subsidiary, or any person who  
20 owns or controls such fully separated subsidiary, and any  
21 labor organization representing the employees of such fully  
22 separated subsidiary may enter into a collective bargaining  
23 agreement at any time after the establishment of such fully  
24 separated subsidiary. Any such agreement—

1           “(i) shall supersede the terms and application of  
2           any collective bargaining agreement specified in sub-  
3           paragraph (A); and

4           “(ii) shall supersede the requirements of this sub-  
5           section to the extent such requirements otherwise  
6           would apply to such fully separated subsidiary.

7           “(6)(A) Except as provided in subparagraph (B), if a  
8           regular employee is transferred to a fully separated subsidi-  
9           ary by a dominant carrier or by any affiliated organization,  
10          and such regular employee is discharged for other than cause  
11          during the 7-year period following the date of such transfer,  
12          then such regular employee shall be entitled to receive com-  
13          pensation from such fully separated subsidiary in an amount  
14          which is not less than the amount of compensation such regu-  
15          lar employee would have been entitled to receive from such  
16          dominant carrier or such affiliated organization if such domi-  
17          nant carrier or such affiliated organization discharged such  
18          regular employee for other than cause immediately before the  
19          date of such transfer.

20          “(B) If a collective bargaining agreement between a  
21          fully separated subsidiary and any labor organization repre-  
22          senting the employees of such fully separated subsidiary is in  
23          effect at the time a regular employee is discharged in the  
24          manner specified in subparagraph (A), and such collective  
25          bargaining agreement applies to such regular employee and

1 provides benefits which differ from the benefits available to  
2 such regular employee under subparagraph (A), then such  
3 regular employee may select the benefits which shall apply.  
4 Such selection shall be made through notice to the fully sepa-  
5 rated subsidiary before the end of the 10-day period following  
6 the date of such discharge. If such regular employee does not  
7 furnish such notice before the end of such 10-day period, then  
8 benefits under the collective bargaining agreement shall  
9 apply.

10       “(7) If any transferred employee is the subject of a  
11 layoff during the 7-year period following the date of the  
12 transfer of such transferred employee to a fully separated  
13 subsidiary, then such transferred employee shall have the  
14 first right of rehire in his occupational specialty (or its equiv-  
15 alent) during the 2-year period following the date of the  
16 layoff of such transferred employee, except that such right  
17 shall not apply unless such transferred employee is physically  
18 able, and equipped by training and experience, to perform the  
19 duties of the work available. Such fully separated subsidiary  
20 shall maintain lists of employees who have been separated  
21 from employment through layoffs. Such lists shall contain  
22 sufficiently detailed information to enable such fully sepa-  
23 rated subsidiary to comply with the requirements of this  
24 paragraph.

1       “(8) A dominant carrier or any affiliated organization  
2 shall not reduce the salary or wages of a regular employee,  
3 or separate such regular employee from employment through  
4 layoff or termination, during the 6-month period immediately  
5 before the establishment of a fully separated subsidiary by  
6 such dominant carrier or by such affiliated organization  
7 unless—

8               “(A) such regular employee consents to such  
9               action; or

10               “(B) such action is not related to the establish-  
11               ment of such fully separated subsidiary.

12       “(9) The provisions of this subsection shall not apply to  
13 any employee who is transferred to a fully separated subsidi-  
14 ary after the 7-year period following the date of the establish-  
15 ment of such fully separated subsidiary.

16       “(10) Nothing in this subsection shall be construed to  
17 restrict, limit, or eliminate the authority of a dominant car-  
18 rier, an affiliated organization, or a fully separated subsidiary  
19 to discharge an employee, or take any disciplinary or other  
20 action against an employee, for cause.

21       “(11) For purposes of the enforcement or protection of  
22 rights, privileges, and immunities granted or guaranteed in  
23 this subsection, employees shall be entitled to the same reme-  
24 dies as are provided by the National Labor Relations Act in  
25 the case of employees covered by such Act. The National



1 Labor Relations Board and the courts of the United States  
2 (including the courts of the District of Columbia) shall have  
3 jurisdiction and power to enforce and protect such rights,  
4 privileges, and immunities in the same manner as in the case  
5 of enforcement of the provisions of the National Labor Rela-  
6 tions Act.”.

7 (b)(1) The Communications Act of 1934 (47 U.S.C. 151  
8 et seq.) is amended by redesignating section 214 as section  
9 215, and by transferring such section to appear immediately  
10 after section 214 of the Communications Act of 1934, as  
11 added in subsection (a).

12 (2)(A) Section 215(a) of the Communications Act of  
13 1934, as so redesignated in paragraph (1), is amended to read  
14 as follows:

15 “SEC. 215. (a)(1)(A) Except as provided in subpara-  
16 graph (B) and subparagraph (C), no dominant carrier or other  
17 regulated carrier shall—

18 “(i) construct any new line or any extension of a  
19 line;

20 “(ii) acquire or operate any such line or extension;  
21 or

22 “(iii) transmit any telecommunications through the  
23 use of any such line or extension;

24 unless such dominant carrier or other regulated carrier sub-  
25 mits a petition to the Commission for such purpose and the

1 Commission determines that any such action by such domi-  
2 nant carrier or other regulated carrier serves the present or  
3 future public convenience and necessity.

4 “(B) A determination made by the Commission under  
5 subparagraph (A) shall not be required for the construction,  
6 extension, acquisition, or operation of—

7 “(i) any line located in a single local exchange  
8 area (unless such line constitutes part of a line used to  
9 provide interexchange telecommunications service);

10 “(ii) any local, branch, or terminal line which is  
11 not more than 10 miles in length;

12 “(iii) any line acquired under section 276 or sec-  
13 tion 277; or

14 “(iv) any line which is constructed, extended, ac-  
15 quired, or operated in connection with the offering by  
16 the dominant carrier or other regulated carrier of any  
17 telecommunications service or class of telecommunica-  
18 tions services which is not subject to the regulatory  
19 authority of the Commission under this title or to the  
20 regulatory authority of any State commission.

21 “(C) The Commission, upon the receipt of an appropri-  
22 ate request, shall have authority to authorize temporary or  
23 emergency telecommunications service, or the supplementing  
24 of existing telecommunications facilities, without regard to  
25 the other provisions of this section.

1       “(2)(A) Except as provided in subparagraph (C) and  
2 subparagraph (D), if a dominant carrier or other regulated  
3 carrier (other than a regulated carrier which is subject to the  
4 regulatory authority of the Commission under section  
5 212(a)(5) and which is eligible to submit a petition under  
6 paragraph (3)) seeks—

7           “(i) to discontinue or reduce the offering of any  
8 telecommunications service or facility, or class of tele-  
9 communications services or facilities, which is being of-  
10 fered by such dominant carrier or other regulated car-  
11 rier in a particular market or submarket on the day  
12 before the date of the enactment of the Telecommuni-  
13 cations Act of 1980, and which (on such day) was sub-  
14 ject to the regulatory authority of the Commission  
15 under this title; or

16           “(ii) to continue the offering of such service or fa-  
17 cility, or class of services or facilities (other than basic  
18 telecommunications service), in all such markets or  
19 submarkets or in any particular market or submarket—

20           “(I) subject only to that regulatory authority  
21 of the Commission under this title which is applic-  
22 cable to all carriers; and

23           “(II) in the case of a dominant carrier, sub-  
24 ject to the requirements applicable to fully sepa-  
25 rated subsidiaries;

1 then such dominant carrier or other regulated carrier may  
2 submit a petition for such purpose to the Commission.

3 “(B) The Commission shall grant any petition submitted  
4 under subparagraph (A) unless the Commission determines  
5 that—

6 “(i) the dominant carrier or other regulated car-  
7 rier involved has failed to meet its burden of proof that  
8 effective competition exists in the market or submarket  
9 involved; or

10 “(ii) the granting of such petition will not serve  
11 the present or future public convenience and necessity.

12 “(C) The Commission, upon the receipt of an appropri-  
13 ate request, shall have authority to authorize temporary or  
14 emergency discontinuance, reduction, or impairment of tele-  
15 communications service, or partial discontinuance, reduction,  
16 or impairment of such service, without regard to the other  
17 provisions of this section.

18 “(D) An international carrier shall not be entitled to  
19 submit any petition under subparagraph (A)(ii).

20 “(3)(A) If any regulated carrier which is subject to the  
21 regulatory authority of the Commission under section  
22 212(a)(5) seeks—

23 “(i) to discontinue or reduce the offering of any  
24 telecommunications service or facility, or class of tele-  
25 communications services or facilities, which was being

1 offered by such regulated carrier in a particular market  
2 or submarket on the day before the date of the enact-  
3 ment of the Telecommunications Act of 1980, and  
4 which (on such day) was subject to the regulatory au-  
5 thority of the Commission under this title or to the  
6 regulatory authority of any State commission; or

7 “(ii) to continue the offering of such service or fa-  
8 cility, or class of services or facilities, in such market  
9 or submarket subject only to that regulatory authority  
10 of the Commission under this title which is applicable  
11 to all carriers;

12 then such regulated carrier may submit a petition for such  
13 purpose to the Commission during the 1-year period follow-  
14 ing the date of the enactment of the Telecommunications Act  
15 of 1980. In any case in which a regulated carrier submits  
16 such a petition, such regulated carrier shall provide written  
17 notice of the submission of such petition to each user of the  
18 services or facilities of such regulated carrier. After such  
19 period, any such carrier shall be required to submit any such  
20 petition under paragraph (2) in the same manner as any other  
21 regulated carrier.

22 “(B) The Commission shall grant any petition submitted  
23 under subparagraph (A) unless the Commission determines  
24 that the granting of such petition will not serve the present  
25 or future public convenience and necessity.

1       “(C)(i) The Commission shall take action with respect to  
2 any petition submitted under subparagraph (A) not later than  
3 90 days after notice is published in the Federal Register of  
4 receipt of such petition by the Commission, except that the  
5 Commission may extend such period for 1 period of 90 days  
6 if the Commission considers such extension to be necessary  
7 for the disposition of the petition.

8       “(ii) If the Commission fails to take final action with  
9 respect to any petition submitted by a regulated carrier under  
10 subparagraph (A) before the end of the applicable period  
11 under clause (i), then such petition shall be deemed to have  
12 been granted by the Commission.

13       “(4) Nothing in this section shall be construed to require  
14 authorization by the Commission for any installation, replace-  
15 ment, or other change in plant, operation, or equipment  
16 (other than new construction) which will not impair the ade-  
17 quacy or quality of telecommunications service provided by  
18 the dominant carrier or other regulated carrier involved.

19       “(5) For purposes of this subsection, the term ‘line’  
20 means any channel of communication established by the use  
21 of appropriate equipment, other than a channel of com-  
22 munication established by connection of 2 or more existing  
23 channels.”.

24       (B) Section 215(b) of the Communications Act of 1934,  
25 as so redesignated in paragraph (1), is amended—

1 (i) by striking out “for any such certificate” and  
2 inserting in lieu thereof “under subsection (a)”; and

3 (ii) by inserting after “service is proposed” the  
4 following: “(or in which the dominant carrier or other  
5 regulated carrier involved proposes to continue the of-  
6 fering of telecommunications service in accordance  
7 with subsection (a)(2)(A)(ii) or subsection (a)(3)(A)(ii), as  
8 the case may be)”.

9 (C) Section 215(c) of the Communications Act of 1934,  
10 as so redesignated in paragraph (1), is amended by striking  
11 out the first sentence thereof and inserting in lieu thereof  
12 the following new sentences: “The Commission shall have  
13 authority—

14 “(1) to grant any petition submitted under subsec-  
15 tion (a)(1)(A), to refuse to grant such a petition, or to  
16 grant such a petition for only a portion of the line in-  
17 volved, for only a portion of the extension of such line,  
18 for only a portion of the proposed telecommunications  
19 service involved, or for only a partial exercise of the  
20 right or privilege sought in such petition; and

21 “(2) to grant any petition submitted under subsec-  
22 tion (a)(2)(A) or subsection (a)(3)(A), to refuse to grant  
23 such a petition, or to grant such a petition for only a  
24 portion of the discontinuance or reduction of telecom-

1       munications service involved, or for only a partial exer-  
2       cise of the right or privilege sought in such petition.  
3       The Commission, in granting any such petition, may impose  
4       such terms and conditions as in its judgment the public con-  
5       venience and necessity may require.”.

6       (D) The second sentence of section 215(c) of the Com-  
7       munications Act of 1934, as so redesignated in paragraph (1),  
8       is amended—

9             (i) by striking out “issuance of such certificate”  
10          and inserting in lieu thereof “approval of any such pe-  
11          tition by the Commission”;

12            (ii) by striking out “carrier” and inserting in lieu  
13          thereof “dominant carrier or other regulated carrier  
14          involved”;

15            (iii) by striking out “approval other than such cer-  
16          tificate” and inserting in lieu thereof “any additional  
17          approval by the Commission”;

18            (iv) by striking out “contained in or attached to  
19          the issuance of such certificate” and inserting in lieu  
20          thereof “imposed by the Commission”; and

21            (v) by striking out “service” and inserting in lieu  
22          thereof “telecommunications service (or with the offer-  
23          ing of telecommunications service in accordance with  
24          subsection (a)(2)(A)(ii) or subsection (a)(3)(A)(ii), as the  
25          case may be)”.



1       (E) Section 215 of the Communications Act of 1934, as  
2 so redesignated in paragraph (1), is amended by redesignat-  
3 ing subsection (d) as subsection (e) and by inserting after sub-  
4 section (c) the following new subsection:

5       “(d) Any interexchange carrier which is not otherwise  
6 subject to the regulatory authority of the Commission under  
7 this title with respect to the offering of any telecommunica-  
8 tions service or facility, or class of telecommunications serv-  
9 ices or facilities, shall—

10           “(1) submit written notice to the Commission not  
11 later than the date on which such carrier commences  
12 the offering of such service or facility, or such class of  
13 services or facilities; and

14           “(2) submit written notice to the Commission not  
15 later than 90 days before such carrier discontinues or  
16 reduces the provision of such service or facility, or  
17 such class of services or facilities.”.

18       (F) Section 215(e) of the Communications Act of 1934,  
19 as so redesignated in paragraph (1) and subparagraph (E), is  
20 amended—

21           (i) by striking out “carrier” the first, third, and  
22 last places it appears therein and inserting in lieu  
23 thereof “dominant carrier or other regulated carrier”;  
24 and

1 (ii) by striking out "a common" and inserting in  
2 lieu thereof "such a".

3 (c)(1) The Communications Act of 1934 (47 U.S.C. 151  
4 et seq.) is amended by inserting after section 215, as so re-  
5 designated in subsection (b)(1), the following new section:

6 "REQUIREMENTS APPLICABLE TO FURNISHING OF  
7 SERVICES AND FACILITIES

8 "SEC. 216. (a) A dominant carrier and any other regu-  
9 lated carrier—

10 "(1) shall furnish interexchange telecommunica-  
11 tions services or facilities which are subject to the reg-  
12 ulatory authority of the Commission under this title if  
13 a reasonable request is made for such services or  
14 facilities;

15 "(2) may not discriminate with respect to the  
16 rates, terms, and conditions for such services or facili-  
17 ties; and

18 "(3) may not establish or maintain any unreason-  
19 able or anticompetitive restriction relating to the fur-  
20 nishing, resale, or sharing of such services or facilities.

21 "(b) A dominant carrier, any other regulated carrier,  
22 and an intraexchange carrier—

23 "(1) shall establish interconnection of its tariffed  
24 services with any interexchange carrier if a reasonable  
25 request is made for such interconnection;

1           “(2) shall establish interconnection—

2                   “(A) with any telecommunications facility or  
3           private telecommunications system which meets  
4           such uniform, minimum, technical standards as  
5           the Commission may establish by rule; and

6                   “(B) with any terminal equipment or termi-  
7           nal device which is owned or leased by a custom-  
8           er of such dominant carrier, regulated carrier, or  
9           intraexchange carrier and which meets such  
10          standards as the Commission may establish under  
11          section 211(a)(6)(B); and

12                  “(3) may not discriminate in an unreasonable or  
13          anticompetitive manner among interexchange carriers  
14          or other customers with respect to the rates, terms,  
15          and conditions for interconnection.

16          “(c) Each common carrier, other than a dominant carri-  
17          er or regulated carrier subject to subsection (b), shall estab-  
18          lish interconnection—

19                  “(1) with any private telecommunications system  
20          or telecommunications facility which meets such uni-  
21          form, minimum, technical standards as the Commission  
22          may establish by rule; and

23                  “(2) with any terminal equipment or terminal  
24          device which is owned or leased by a customer of such

1 carrier and which meets such standards as the Com-  
2 mission may establish under section 211(a)(6)(B).

3 “(d) The Commission shall have authority—

4 “(1) to specify or to approve the manner, rates,  
5 terms, and conditions for the provision by any domi-  
6 nant carrier, or any other regulated carrier, of interex-  
7 change telecommunications services or facilities which  
8 are subject to regulation by the Commission under this  
9 title to other carriers or customers of such dominant  
10 carrier or other regulated carrier;

11 “(2) to specify or to approve the manner, rates,  
12 terms, and conditions for interconnection between in-  
13 terexchange telecommunications services or facilities  
14 and intraexchange telecommunications services or facil-  
15 ities;

16 “(3) to specify or to approve the manner of inter-  
17 connection between the regulated telecommunications  
18 services and facilities of a dominant carrier, any other  
19 regulated carrier, or an intraexchange carrier and—

20 “(A) any telecommunications facility or pri-  
21 vate telecommunications system which meets such  
22 uniform, minimum, technical standards as the  
23 Commission may establish by rule; and

24 “(B) any terminal equipment or terminal  
25 device which is owned or leased by a customer of

1 such dominant carrier, regulated carrier, or in-  
 2 traexchange carrier and which meets such stand-  
 3 ards as the Commission may establish under sec-  
 4 tion 211(a)(6)(B); and

5 “(4) to prohibit discrimination specified in subsec-  
 6 tion (b)(3) by dominant carriers, regulated carriers, or  
 7 intraexchange carriers.

8 “(e) The Commission may reduce or eliminate duties  
 9 imposed upon common carriers by subsection (c) to the extent  
 10 necessary to carry out the purposes of this title. The provi-  
 11 sions of subsection (c) shall not be construed to grant the  
 12 Commission any authority to review or establish any rates,  
 13 terms, or conditions applicable to interconnection.”.

14 (2) The Communications Act of 1934 (47 U.S.C. 151 et  
 15 seq.) is amended—

16 (A) by redesignating subsection (a) of section 201  
 17 as subsection (f) of section 216 of the Communications  
 18 Act of 1934, as added in paragraph (1), and by trans-  
 19 ferring such subsection to appear immediately after  
 20 subsection (e) of section 216 of the Communications  
 21 Act of 1934, as so added; and

22 (B) by redesignating subsection (b) of section 201  
 23 as subsection (g) of section 216 of the Communications  
 24 Act of 1934, as added in paragraph (1), and by trans-  
 25 ferring such subsection to appear immediately after

1 subsection (f) of section 216 of the Communications  
2 Act of 1934, as so redesignated and transferred in  
3 subparagraph (A).

4 (d) The Communications Act of 1934 (47 U.S.C. 151 et  
5 seq.) is amended—

6 (1) by redesignating section 202 as section 217,  
7 and by transferring such section to appear immediately  
8 after section 216 of the Communications Act of 1934,  
9 as added in subsection (c)(1); and

10 (2) by inserting after section 217, as so redesign-  
11 ated in paragraph (1), the following new sections:

12 “FURNISHING OF CERTAIN SERVICES, FACILITIES, AND  
13 PRODUCTS BY DOMINANT CARRIERS

14 “SEC. 218. (a)(1) Notwithstanding the terms and condi-  
15 tions of any consent judgment or decree entered into before  
16 the date of the enactment of the Telecommunications Act of  
17 1980, and subject to the requirements of this section, any  
18 dominant carrier which is subject to such judgment or decree,  
19 and any affiliated organization, may provide any service, fa-  
20 cility, or product which is not subject to the regulatory au-  
21 thority of the Commission under this title or to the regulatory  
22 authority of any State commission and which is—

23 “(A) a telecommunications service, facility, or  
24 product; or

1           “(B) a service, facility, or product incidental to  
2           telecommunications.

3           “(2)(A)(i) Notwithstanding any other provision of this  
4 Act, and except as provided in clause (ii), no dominant carrier  
5 or affiliated organization (including any fully separated sub-  
6 sidiary of such dominant carrier) may provide (within any  
7 area in which such dominant carrier is providing intraex-  
8 change telecommunications service) any alarm service, cable  
9 service, mass media service, or mass media product through  
10 any facility which is owned or controlled by such dominant  
11 carrier, affiliated organization, or fully separated subsidiary.

12           “(ii) The provisions of this paragraph shall not be con-  
13 strued to prohibit any dominant carrier, any affiliated organi-  
14 zation, or any fully separated subsidiary of such dominant  
15 carrier from—

16           “(I) leasing or otherwise providing facilities for  
17 the provision of any alarm service, cable service, mass  
18 media service, or mass media product (in accordance  
19 with subsection (b)) to any person who is not affiliated  
20 with such dominant carrier, affiliated organization, or  
21 fully separated subsidiary;

22           “(II) providing any broadband telecommunications  
23 service which does not involve program origination or  
24 mass media service; or

1           “(III) transmitting television or radio broadcasting  
2 signals as a carrier (which does not include the provi-  
3 sion of cable service).

4           “(B) In any case in which any dominant carrier, any  
5 affiliated organization, or any fully separated subsidiary of  
6 such dominant carrier provides facilities for the provision of  
7 any mass media service or mass media product, such domi-  
8 nant carrier, affiliated organization, or fully separated subsid-  
9 iary shall make such facilities available on a nondiscrimina-  
10 tory basis to any person who originates or otherwise provides  
11 any mass media service or mass media product and who  
12 makes a reasonable request for the use of such facilities.

13           “(b)(1) If a dominant carrier or any affiliated organiza-  
14 tion seeks to engage in the offering of any service, facility, or  
15 product incidental to telecommunications in accordance with  
16 subsection (a), then such dominant carrier or affiliated organi-  
17 zation shall engage in the offering of such service, facility, or  
18 product only—

19           “(A) in a manner which complies with the re-  
20 quirements of section 219(d); and

21           “(B) through the establishment (in accordance  
22 with section 214 and section 219) of 1 or more fully  
23 separated subsidiaries.

24           “(2) The offering of such service, facility, or product  
25 shall not be subject to any other regulatory authority of the



1 Commission under this title or to the regulatory authority of  
2 any State commission, except that such offering shall be sub-  
3 ject to—

4           “(A) that regulatory authority of the Commission  
5           which is applicable to all carriers; and

6           “(B) the requirements applicable to fully separat-  
7           ed subsidiaries.

8           “(3) If such dominant carrier or affiliated organization  
9 ceases to be subject to the applicable terms and conditions of  
10 the consent judgment or decree specified in subsection (a),  
11 then the provisions of section 214(a)(3) shall apply to such  
12 dominant carrier or affiliated organization.

13           “(c) Nothing in any amendment made to this Act by the  
14 Telecommunications Act of 1980 (other than the provisions  
15 of subsection (a)(2)(A)(i) of this section) shall be construed to  
16 affect—

17           “(1) the authority of the Commission to establish  
18           rules or requirements relating to the offering of cable  
19           service by intraexchange carriers (or any entity affili-  
20           ated with any such carrier) directly to subscribers lo-  
21           cated in their service areas; or

22           “(2) any rules of the Commission, relating to the  
23           offering of such service, which are in effect on the date  
24           of the enactment of the Telecommunications Act of  
25           1980.

1       “(d)(1) Except as provided in paragraph (2) and in sub-  
2 section (a), the provisions of this section shall not be con-  
3 strued to limit or restrict the manner in which, or the extent  
4 to which, any dominant carrier or affiliated organization  
5 which is subject to the consent judgment or decree specified  
6 in subsection (a)(1) is permitted to engage in, or is engaging  
7 in, any activity in accordance with the terms of such judg-  
8 ment or decree on the date of the enactment of the Telecom-  
9 munications Act of 1980.

10       “(2) This subsection shall not be construed to authorize  
11 or permit such dominant carrier or affiliated organization to  
12 offer any service, facility, or product incidental to telecommu-  
13 nications—

14               “(A) except to the extent, and in the manner,  
15 such offering is authorized or permitted by any other  
16 provision of this section; and

17               “(B) except for any terminal equipment or termi-  
18 nal device which is described in section 219(f)(4)(A),  
19 and which is regulated by the Commission or by any  
20 State commission in a manner consistent with section  
21 231(a)(3).

22       “(e) For purposes of this section:

23               “(1) The term ‘alarm service’ means the provision  
24 to the public of any intrusion alarm service or any fire  
25 alarm service, or both, by any person.

1           “(2) The term ‘cable service’ means the retrans-  
2           mission of any television or radio broadcasting signal,  
3           or program origination, for distribution by cable or any  
4           other closed transmission medium to multiple subscrib-  
5           ers who pay to receive such service.

6           “(3) The term ‘mass media’ includes, but is not  
7           limited to, television and radio broadcasting, pay tele-  
8           vision, and printed or electronic publications (including  
9           newspapers, periodicals, and any service or product  
10          like or similar to all or part of the function of a news-  
11          paper or periodical or any portion of a newspaper or  
12          periodical). Such term does not include telephone  
13          number or address listings and directory assistance  
14          (limited to telephone number, address, and business  
15          category), weather or time information, or data retriev-  
16          al services which do not provide any information which  
17          is like or similar to information provided by newspa-  
18          pers, periodicals, or television and radio broadcasting.  
19          The Commission shall have authority to determine in  
20          disputed cases whether any proposed service or prod-  
21          uct is a mass media service or product.

22          “(4) The term ‘program origination’ means the  
23          distribution of any television or radio program (includ-  
24          ing news, public affairs, entertainment, sports, educa-  
25          tional programs, or religious affairs) by any person who

1       may exercise control over the content or source of such  
2       program.

3       “REGULATION OF TRANSACTIONS BETWEEN DOMINANT  
4       CARRIERS AND FULLY SEPARATED SUBSIDIARIES

5       “SEC. 219. (a)(1) Any conduct of business between any  
6       dominant carrier or affiliated organization and any fully sepa-  
7       rated subsidiary shall be on a fully auditable and compensa-  
8       tory basis, and shall be subject to the requirements estab-  
9       lished in paragraph (4), subsection (f)(2)(C), subsection  
10      (f)(2)(D), and subsection (f)(2)(F). Such conduct of business  
11      shall be pursuant to contract and shall be reported to the  
12      Commission under such rules as the Commission determines  
13      necessary. The Commission shall make such contracts, or  
14      portions of contracts, available for public inspection to the  
15      extent necessary to ensure proper enforcement of this  
16      section.

17      “(2) The provisions of paragraph (1) shall not require  
18      any fully separated subsidiary or affiliated organization to  
19      furnish any telecommunications service, facility, product,  
20      subassembly, or component, or any service, facility, or prod-  
21      uct incidental to telecommunications, to any unaffiliated  
22      person, except as may be required under paragraph (4), sub-  
23      section (f)(2)(C), or subsection (f)(2)(D).

24      “(3)(A) In addition to the requirements of section 216,  
25      the conduct of business by any dominant carrier (other than

1 any person who owns or controls a dominant carrier) or any  
2 affiliated organization with an unaffiliated person shall be  
3 carried out in the same manner as such business is conducted  
4 between such carrier or affiliated organization and any fully  
5 separated subsidiary. The conduct of business between a  
6 dominant carrier (other than any person who owns or con-  
7 trols a dominant carrier) or any affiliated organization and  
8 any fully separated subsidiary shall not be based upon, or  
9 include, any preference or discrimination arising out of  
10 affiliation.

11 “(B) Nothing in this paragraph shall prohibit or other-  
12 wise restrict any dominant carrier, affiliated organization, or  
13 fully separated subsidiary from exercising its independent, or-  
14 dinary business discretion in connection with business con-  
15 ducted with unaffiliated persons.

16 “(4) In addition to any other authority which the Com-  
17 mission may exercise under this Act, the Commission shall  
18 have authority to regulate any dominant carrier and its affili-  
19 ated organizations (other than any fully separated subsidiary)  
20 for the purpose of—

21 “(A) dealing with anticompetitive practices be-  
22 tween the fully separated subsidiary and the dominant  
23 carrier, its subsidiaries, or any affiliated organization;  
24 and

1           “(B) protecting users of telecommunications serv-  
2           ices which are subject to the regulatory authority of  
3           the Commission under this title or to the regulatory  
4           authority of any State commission, in connection with  
5           dealings between such dominant carrier, and its affli-  
6           ated organizations, and any fully separated subsidiary.  
7           Nothing in this section shall be construed to limit the authori-  
8           ty of the Commission under section 214(b)(1) or section  
9           214(c)(2).

10          “(5) Except as provided in section 214(c)(1), nothing in  
11          this Act is intended to preclude corporate management from  
12          directing the operation of the dominant carrier, any affiliated  
13          organization, and any fully separated subsidiary, except that  
14          costs of such direction shall be properly allocated to the  
15          dominant carrier, affiliated organization, or fully separated  
16          subsidiary.

17          “(b)(1) The Commission shall establish procedures under  
18          this subsection with respect to the disclosure of information  
19          in accordance with paragraph (2) and consistent with subsec-  
20          tion (a)(3), except that the requirements of this subsection  
21          also shall apply to any person who owns or controls a domi-  
22          nant carrier. Such procedures shall require each dominant  
23          carrier and affiliated organization (and any other regulated  
24          carrier, for purposes of subparagraph (C)) to maintain and file  
25          with the Commission a description of the operational proto-

1 cols and technical interface requirements for connection with  
2 or use of any regulated telecommunications network, and to  
3 report regularly to the Commission—

4           “(A) any material change relating to such proto-  
5 cols or requirements which has been adopted or imple-  
6 mented, or for which a decision has been made to  
7 adopt or implement, including any information or tech-  
8 nical requirements relating to the capacity of services,  
9 facilities, or products to function effectively and effi-  
10 ciently if interconnected with any telecommunications  
11 service or facility furnished by a dominant carrier;

12           “(B) any material change in any operational pro-  
13 tocol or technical interface requirement not already dis-  
14 closed under subparagraph (A) which will be required  
15 by the specific design or development of any service,  
16 facility, or product;

17           “(C) summaries of construction programs or activ-  
18 ities intended to maintain, extend, or expand the regu-  
19 lated network services or facilities of a dominant carri-  
20 er or any other regulated carrier which is subject to  
21 regulation under section 212(a)(4), if such information  
22 affects connection with or the functioning of the service  
23 offerings of competing carriers or persons seeking in-  
24 terconnection with any telecommunications service or

1 facility furnished by such dominant carrier or other  
2 regulated carrier;

3 “(D) similar information relating to any regulated  
4 telecommunications network the disclosure of which  
5 the Commission determines to be necessary on its own  
6 initiative or in response to a petition submitted by any  
7 interested person; and

8 “(E) other information regarding any regulated  
9 telecommunications network of a dominant carrier  
10 which affects the capacity of services, facilities, or  
11 products to function effectively and efficiently if inter-  
12 connected with such network.

13 “(2) In any case in which a submission to the Commis-  
14 sion is required under paragraph (1), any person may obtain  
15 the information which is the subject of such submission from  
16 the Commission upon reasonable request and payment of rea-  
17 sonable copying and processing fees, unless the Commission,  
18 after consultation with the agencies designated in Executive  
19 Order No. 12046 (March 27, 1978; 43 Federal Register  
20 13349), determines that the furnishing of such information  
21 would be detrimental to the national defense and security or  
22 to the emergency preparedness of the Nation. Any such re-  
23 quest for information shall be subject to the provisions of sec-  
24 tion 552 of title 5, United States Code.



1       “(3) The Commission also shall establish procedures  
2 prohibiting the disclosure by a dominant carrier of any com-  
3 mercial information acquired in its provision of telecommuni-  
4 cations services which are subject to the regulatory authority  
5 of the Commission under this title or to the regulatory au-  
6 thority of any State commission, which would be of value to  
7 the fully separated subsidiary or to any unregulated entity,  
8 except that the Commission may require that specific catego-  
9 ries of such information, such as directory listings, shall be  
10 made available to all parties, including any fully separated  
11 subsidiary, unregulated entities, and unaffiliated persons, at  
12 the same time, at the same rates, and on the same terms and  
13 conditions.

14       “(c) Any person who seeks to obtain any accounting  
15 information (including any related report or memorandum)  
16 which is prepared by any dominant carrier or affiliated orga-  
17 nization in compliance with the requirements of this section,  
18 or in compliance with any other provision of this Act added  
19 by the amendments made by the Telecommunications Act of  
20 1980, may petition the Commission for the issuance of an  
21 order requiring such dominant carrier or affiliated organiza-  
22 tion to disclose such information. The Commission shall issue  
23 such order upon a proper showing by such person that there  
24 is good cause for the issuance of such an order, such as  
25 reason to believe that a violation of section 254 has occurred.

1 If such accounting information is an agency record in the  
2 possession or control of the Commission, and any person  
3 seeks to obtain such accounting information from the Com-  
4 mission, such person may request the disclosure of such infor-  
5 mation in accordance with section 552 of title 5, United  
6 States Code.

7       “(d) No dominant carrier or affiliated organization may  
8 directly or indirectly assign any costs (including costs in-  
9 curred before the date of the enactment of the Telecommuni-  
10 cations Act of 1980, and including costs associated with re-  
11 search and development) in violation of subsection (e)(1)(A) or  
12 section 254, including any assignment of costs to the ex-  
13 penses or rate base of such dominant carrier, if such costs  
14 properly should be assigned to any fully separated subsidiary  
15 of such dominant carrier or to activities of the dominant car-  
16 rier or any affiliated organization which benefit any fully sep-  
17 arated subsidiary. The Commission shall have the authority  
18 to carry out the provisions of this subsection and the provi-  
19 sions of section 254, including the authority to investigate  
20 any transaction or assignment of costs.

21       “(e)(1) During the transition period established in sub-  
22 section (f), and before any subsidiary of a dominant carrier  
23 shall be considered a fully separated subsidiary for purposes  
24 of this Act, the dominant carrier shall file with the Commis-  
25 sion a plan demonstrating that—

1           “(A) the dominant carrier and any affiliated orga-  
2           nization have an accounting system which ensures a  
3           complete separation between—

4                   “(i) all costs related to services, facilities,  
5                   and products which are developed, manufactured,  
6                   or offered by such dominant carrier or any affli-  
7                   ated organization (other than the costs of any ac-  
8                   tivities which are carried out for the benefit of  
9                   any fully separated subsidiary of such dominant  
10                  carrier or any affiliated organization); and

11                   “(ii) all costs of any fully separated subsidi-  
12                   ary, including those related to services, facilities,  
13                   and products which are developed, manufactured,  
14                   or offered by any fully separated subsidiary of a  
15                   dominant carrier, or of any affiliated organization,  
16                   or as the result of any activities which are carried  
17                   out for the benefit of any fully separated subsidi-  
18                   ary of such dominant carrier or any affiliated or-  
19                   ganization;

20                  “(B) such accounting system is established and  
21                  maintained in a manner which ensures compliance with  
22                  subsection (a)(1);

23                   “(C) the proposed fully separated subsidiary com-  
24                  plies with the requirements of section 214(c)(1); and

1           “(D) the assets, including capital, proposed for  
2           transfer to the proposed fully separated subsidiary have  
3           been fairly and properly valued.

4           The valuation specified in subparagraph (D) shall be binding  
5           upon the States upon approval of such plan by the  
6           Commission.

7           “(2)(A)(i) Not later than 180 days after the filing of such  
8           plan, the Commission shall issue an order announcing its ap-  
9           proval or disapproval of such plan, stating the specific as-  
10          pects of such plan which violate the provisions of this Act or  
11          the rules of the Commission. The Commission, before issuing  
12          such order, shall publish notice of the receipt of such plan and  
13          shall provide an opportunity for the submission of public com-  
14          ments regarding such plan during such 180-day period. The  
15          Commission, during such 180-day period, shall in a timely  
16          manner seek to obtain the opinion of the Attorney General of  
17          the United States regarding all aspects of such plan. The  
18          Commission shall not have any authority to extend such 180-  
19          day period for the purpose of receiving public comments or  
20          for any other purpose.

21          “(ii) In the case of disapproval by the Commission, the  
22          dominant carrier then may file an amended plan modifying  
23          the original plan to correct those aspects of such plan cited  
24          by the Commission as violating the provisions of this Act or  
25          the rules of the Commission. The Commission shall issue an

1 order, not later than 60 days after the filing of such amended  
2 plan, approving such amended plan if it corrects such as-  
3 pects. The Commission, before issuing such order, shall pub-  
4 lish notice of the receipt of such amended plan and shall pro-  
5 vide an opportunity for the submission of public comments  
6 regarding such amended plan during such 60-day period.

7 “(B) Failure of the Commission to issue an order under  
8 this paragraph before the end of the applicable time period  
9 shall constitute approval of the plan or amended plan in-  
10 volved.

11 “(3) After approval of any plan or amended plan under  
12 paragraph (2), a dominant carrier—

13 “(A) shall notify the Commission with respect to  
14 any minor revision of, or addition to, such plan, and  
15 with respect to any minor transfer of assets, for review  
16 by the Commission to ensure that such revision, addi-  
17 tion, or transfer complies with the requirements of  
18 paragraph (1); and

19 “(B) shall submit any significant revision of, or  
20 addition to, such plan, and any significant transfer of  
21 assets, to the Commission for approval in accordance  
22 with paragraph (1) and paragraph (2) before carrying  
23 out such proposed revision, addition, or transfer.

24 The requirements of this paragraph shall apply during and  
25 after the transition period established in subsection (f).

1       “(f)(1) Subject to the provisions of section 214 and sec-  
2 tion 218, a fully separated subsidiary of a dominant carrier  
3 may offer any telecommunications service, facility, or product  
4 (other than basic telecommunications service), and any serv-  
5 ice, facility, or product incidental to telecommunications, as  
6 provided in this section under the conditions specified in  
7 paragraph (2).

8       “(2)(A) Not later than 4 years after the date of the en-  
9 actment of the Telecommunications Act of 1980, the final  
10 assembly, including all aspects integral to final assembly, of  
11 any products which are required to be offered exclusively by  
12 a fully separated subsidiary shall be provided by a fully sepa-  
13 rated subsidiary or acquired from unaffiliated persons.

14       “(B) Not later than 4 years after such date of enact-  
15 ment, all applied research for, and development of, any tele-  
16 communications services, facilities, or products (including  
17 software), or services, facilities, or products (including soft-  
18 ware) incidental to telecommunications, which are required to  
19 be offered exclusively by a fully separated subsidiary shall be  
20 provided by a fully separated subsidiary or acquired from un-  
21 affiliated persons.

22       “(C) Not later than 6 years after such date of enact-  
23 ment, all subassemblies (including any subassembly-specific  
24 research and development) incorporated in any product inci-  
25 dental to telecommunications which is required to be offered

1 exclusively by a fully separated subsidiary shall be provided  
2 by a fully separated subsidiary or acquired from unaffiliated  
3 persons, except that nothing in this subsection shall, at any  
4 time after such 6-year period, be construed to prohibit the  
5 fully separated subsidiary from acquiring any subassembly  
6 from an affiliated organization if such affiliated organization  
7 also sells the same type of subassemblies to unaffiliated per-  
8 sons at the same rates and on the same terms and conditions.

9       “(D) Not later than 8 years after such date of enact-  
10 ment, all components (including any component-specific re-  
11 search and development) incorporated in any telecommunica-  
12 tions product, or any product incidental to telecommunica-  
13 tions, which is required to be offered exclusively by a fully  
14 separated subsidiary shall be provided by a fully separated  
15 subsidiary or acquired from unaffiliated persons, except that  
16 nothing in this subsection shall, at any time after such 8-year  
17 period, be construed to prohibit a fully separated subsidiary  
18 from acquiring any component from an affiliated organization  
19 if such affiliated organization also sells the same type of com-  
20 ponents to unaffiliated persons at the same rates and on the  
21 same terms and conditions.

22       “(E) The time periods established in this paragraph  
23 shall be extended if the Commission determines that events  
24 beyond the control of the dominant' carrier, or other good  
25 cause, warrant any such extension.

1       “(F)(i) During the applicable time period established in  
2 subparagraph (A), subparagraph (B), subparagraph (C), or  
3 subparagraph (D), the services or products (including any  
4 subassembly, basic component, and research and develop-  
5 ment) which are subject to any such time period—

6               “(I) shall be furnished to any fully separated sub-  
7 sidiary by a dominant carrier or affiliated organization  
8 for an amount which is fully compensatory and which  
9 is not less than the cost allocated to such service or  
10 product in connection with regulated activities carried  
11 out by the dominant carrier involved, except that in no  
12 case shall such amount be less than the rates for which  
13 similar services and products would be or are trans-  
14 ferred in the marketplace between unaffiliated persons;  
15 and

16               “(II) any business which is conducted in connec-  
17 tion with any such service or product shall be on the  
18 same terms and conditions under which similar services  
19 and products would be or are transferred in the mar-  
20 ketplace between unaffiliated persons.

21       “(ii) In any case in which any conduct of business relat-  
22 ing to any service or product specified in clause (i) is conduct-  
23 ed at rates, terms, and conditions which are more favorable  
24 to the recipient than the rates, terms, and conditions under  
25 which similar services or products would be or are trans-



1 ferred in the marketplace between unaffiliated persons, the  
2 requirements of clause (i) shall not apply if the dominant car-  
3 rier or affiliated organization which furnished the service or  
4 product involved demonstrates to the Commission that the  
5 rates, terms, and conditions involved in the conduct of busi-  
6 ness result from more efficient operation and lower direct  
7 costs, and do not result from the allocation of common over-  
8 head or other similar factors.

9       “(3)(A) The conditions and limitations specified in sub-  
10 paragraph (B) shall apply to dominant carriers, affiliated or-  
11 ganizations, and fully separated subsidiaries.

12       “(B)(i) Any manufacturing facilities constructed for the  
13 provision of telecommunications services, facilities, or prod-  
14 ucts, or services, facilities, or products incidental to telecom-  
15 munications, which are required to be offered exclusively by  
16 a fully separated subsidiary commenced after approval of the  
17 plan required in subsection (e)(1) shall be owned by a fully  
18 separated subsidiary.

19       “(ii) A fully separated subsidiary shall not provide ter-  
20 minal equipment or terminal devices during the 3-year period  
21 following the date of the enactment of the Telecommunica-  
22 tions Act of 1980 unless the final assembly of such terminal  
23 equipment or terminal devices is performed by a fully sepa-  
24 rated subsidiary or acquired from unaffiliated persons.

1       “(iii) A fully separated subsidiary shall not provide any  
2 interexchange telecommunications services or facilities,  
3 which are in existence on the date of the enactment of the  
4 Telecommunications Act of 1980, or any interexchange tele-  
5 communications services or facilities which are essentially  
6 similar to services or facilities which are being offered on  
7 such date of enactment, during the 4-year period following  
8 such date of enactment unless the Commission determines in  
9 accordance with the provisions of section 215 that effective  
10 competition exists in the particular market or submarket in  
11 which any such interexchange telecommunications service or  
12 facility will be offered.

13       “(iv) Subject to the requirements of section 214, a domi-  
14 nant carrier, an affiliated organization, or a fully separated  
15 subsidiary shall not provide services, facilities, or products  
16 incidental to telecommunications (other than terminal equip-  
17 ment and terminal devices), unless the final assembly and any  
18 associated development (including software) essential to such  
19 provision is performed by a fully separated subsidiary or ac-  
20 quired from unaffiliated persons. Any research and develop-  
21 ment (including software) associated with any specific serv-  
22 ice, facility, or product commenced after the approval of the  
23 plan required in subsection (e)(1) shall be performed by a fully  
24 separated subsidiary or acquired from unaffiliated persons.

1       “(4) A dominant carrier may not offer any telecommuni-  
2 cations services, facilities, or products subject to the regula-  
3 tory authority of the Commission or of any State commission  
4 (other than basic telecommunications service, intraexchange  
5 telecommunications service, and any other service regulated  
6 by the Commission under section 214(b)(1)), except as  
7 follows:

8           “(A) terminal equipment and terminal devices of a  
9 type which are being offered by such dominant carrier  
10 on the date of the enactment of the Telecommunica-  
11 tions Act of 1980, during—

12           “(i) the 4-year period following such date of  
13 enactment; or

14           “(ii) the period beginning on such date of en-  
15 actment and ending on the date of the approval of  
16 the plan required in subsection (e)(1), if such  
17 period ends before the end of such 4-year period;  
18 and

19           “(B) interexchange telecommunications services  
20 and facilities until deregulated under section 215,  
21 except that no new class of interexchange telecommu-  
22 nications service shall be introduced under regulation  
23 after the 3-year period following such date of  
24 enactment.

1       “(g) The Commission shall not have any authority to  
2 establish any requirements relating to—

3               “(1) the structure or organization of any affiliated  
4 organization or fully separated subsidiary;

5               “(2) any activities of a dominant carrier or person  
6 who owns or controls a dominant carrier which this  
7 section, section 214, or section 218 requires to be con-  
8 ducted by a fully separated subsidiary; or

9               “(3) the conduct of business between any domi-  
10 nant carrier or affiliated organization and any fully  
11 separated subsidiary;

12 which are not consistent with any provision of this section,  
13 section 214, or section 218, which establishes requirements  
14 relating to such structure or organization or to such conduct  
15 of business.

16       “(h) Not later than 1 year after the date of the enact-  
17 ment of the Telecommunications Act of 1980, the Commis-  
18 sion shall prescribe such rules as may be necessary to carry  
19 out the provisions of this section. The Commission shall have  
20 authority to exercise any enforcement authority established  
21 in this Act to carry out such provisions and such rules.

22       “DETERMINATION OF EFFECTIVE COMPETITION

23       “SEC. 220. For purposes of this part, a carrier shall be  
24 considered to be subject to effective competition with respect  
25 to any telecommunications services or facilities offered by

1 such carrier in a particular market or submarket if there are  
 2 available in such market or submarket reasonable alterna-  
 3 tives to such services or facilities which are offered by unaffil-  
 4 iated persons and which are the same as, or substantially  
 5 similar to, the telecommunications services or facilities  
 6 offered by such carrier. The Commission, in determining  
 7 whether reasonable alternatives are available in the relevant  
 8 markets or submarkets, shall consider—

9           “(1) the number and size of unaffiliated persons  
 10       providing such services or facilities;

11           “(2) the extent to which such services or facilities  
 12       are available from unaffiliated persons in the relevant  
 13       markets or submarkets; and

14           “(3) the ability of such unaffiliated persons to  
 15       make such services or facilities readily available at  
 16       comparable rates, terms, and conditions.

17 The Commission also shall take into account other indicators  
 18 of the extent of competition.”.

19       ACCESS FEES; NATIONAL TELECOMMUNICATIONS POOL;

20       PROTECTIONS FOR RATE PAYERS; CARRIER LIABILITY

21       SEC. 3. (a) The Communications Act of 1934 (47  
 22 U.S.C. 151 et seq.) is amended by inserting after section  
 23 220, as added in section 2(d)(2), the following:

1 "PART B—ACCESS FEES; NATIONAL TELECOMMUNICA-  
2 TIONS POOL; PROTECTIONS FOR RATE PAYERS;  
3 CARRIER LIABILITY

4 "ESTABLISHMENT OF TRANSITIONAL JOINT BOARD

5 "SEC. 231. (a) Not later than 90 days after the date of  
6 the enactment of the Telecommunications Act of 1980, a  
7 transitional joint board shall be established in accordance  
8 with this section for the purpose of—

9 "(1) providing for an orderly transition to the  
10 system of intraexchange access fees established in  
11 section 233;

12 "(2) ensuring equitable economic treatment of  
13 subscribers to basic telecommunications service, and of  
14 interexchange carriers; and

15 "(3) providing for the orderly, phased removal of  
16 terminal equipment and terminal devices in use on such  
17 date of enactment from the rate bases of carriers.

18 "(b) The authority of the transitional joint board with  
19 respect to the functions established in this section shall su-  
20 percede the authority of any joint board established under  
21 section 410 and in existence on the date of the enactment of  
22 the Telecommunications Act of 1980.

23 "(c) The transitional joint board shall be composed of—

24 "(1) 3 commissioners of the Commission, desig-  
25 nated by the Commission; and

1           “(2) 2 State commissioners nominated in accord-  
2           ance with section 410(c) and approved in accordance  
3           with section 410(a).

4           “(d) The transitional joint board shall appoint and fix  
5           the pay of such officers, engineers, accountants, attorneys,  
6           inspectors, examiners, and other personnel as may be neces-  
7           sary to assist the transitional joint board in carrying out its  
8           functions under this section. The staff of the transitional joint  
9           board shall be appointed subject to the provisions of title 5,  
10          United States Code, governing appointments in the competi-  
11          tive service, and shall be paid in accordance with the provi-  
12          sions of chapter 51 and subchapter III of chapter 53 of such  
13          title relating to classification and General Schedule pay rates.

14          “(e) The transitional joint board shall have authority to  
15          perform such acts, to establish such rules and regulations,  
16          and to issue such orders as are consistent with the provisions  
17          of this Act and as may be necessary to carry out its functions  
18          under this title. The transitional joint board shall—

19                 “(1) have authority to make minor modifications  
20                 under section 211(d)(3)(B) with respect to rules appli-  
21                 cable to the establishment of local exchange boundaries  
22                 which encompass parts of 2 or more standard metro-  
23                 politan statistical areas, and boundaries for local ex-  
24                 change areas which include geographical areas in more  
25                 than 1 State;

1           “(2) establish and implement rules for orderly,  
2           phased capital recovery and the orderly, phased re-  
3           moval of terminal equipment and terminal devices in  
4           use on the date of the enactment of the Telecommuni-  
5           cations Act of 1980 from the rate bases of carriers,  
6           and for ensuring the continued availability of such  
7           equipment and devices to customers during an appro-  
8           priate transition period;

9           “(3) establish and maintain formulas for determin-  
10          ing the amounts and means necessary to fund the ac-  
11          counts of the National Telecommunications Pool, and  
12          to order and oversee the distribution of funds from the  
13          National Telecommunications Pool in accordance with  
14          subsection (d), subsection (e), and subsection (f) of  
15          section 233;

16          “(4) make such changes and modifications in juris-  
17          dictional separation and settlements procedures (estab-  
18          lished under section 276(c) and section 410(c) and in  
19          effect on the date of the enactment of the Telecommu-  
20          nications Act of 1980) as may be necessary or appro-  
21          priate for the orderly transition to the system of in-  
22          traexchange access fees established in section 233 to  
23          compensate equitably intraexchange carriers for the  
24          costs of distributing interexchange telecommunications



1 through the use of the facilities of such intraexchange  
2 carriers;

3 “(5) determine at regular intervals the relative  
4 assignment by intraexchange carriers of costs of intra-  
5 exchange telecommunications facilities which are not  
6 directly caused by the volume of interexchange tele-  
7 communications transmitted through the use of such  
8 facilities, to interexchange telecommunications services,  
9 to assure that interexchange carriers and other custom-  
10 ers pay amounts which reflect the cost of using the  
11 facilities of intraexchange carriers, except that the total  
12 level of payments from interexchange carriers to in-  
13 traexchange carriers pursuant to access fees and the  
14 National Telecommunications Pool shall not exceed the  
15 level of payments which exists on June 1, 1980, exclu-  
16 sive of any increases in direct costs or payments re-  
17 flecting increases in relative usage;

18 “(6) furnish advice to the Commission with re-  
19 spect to determinations of the Commission regarding  
20 terms and conditions for equivalent access by interex-  
21 change carriers and other customers for interconnection  
22 with intraexchange telecommunications facilities, and  
23 regarding the manner of such interconnection; and

24 “(7) establish and implement an orderly transition  
25 which (A) provides for the termination of any imputa-

1       tion by State commissions of revenues from printed di-  
2       rectory advertising to regulated carrier activities for  
3       ratemaking purposes; and (B) shall be consistent with  
4       the maintenance of reasonable and affordable rates for  
5       intraexchange telecommunications service.

6       “(f) The transitional joint board shall submit annual re-  
7       ports to each House of the Congress with respect to activities  
8       of the transitional joint board under this title.

9       “(g)(1) Any rulemaking or adjudication of the tran-  
10      sitional joint board under this section shall be subject to chap-  
11      ter 5 of title 5, United States Code.

12      “(2) Any action taken by the transitional joint board  
13      under this section shall be considered to be a final action  
14      subject to appeal under subsection (a) of section 402, and  
15      subsections (c) through (j) of section 402.

16      “(h) Except as provided in subsection (c)(2), the provi-  
17      sions of section 410 shall not apply to the transitional joint  
18      board.

19      “(i) The transitional joint board shall terminate at the  
20      end of the 72-month period following the date of the enact-  
21      ment of the Telecommunications Act of 1980. Upon such  
22      termination, and subject to the provisions of section  
23      252(b)(4), the powers and responsibilities of the transitional  
24      joint board shall be carried out by the Commission.”.

1 (b) The Communications Act of 1934 (47 U.S.C. 151 et  
2 seq.) is amended—

3 (1) by redesignating section 203 as section 232,  
4 and by transferring such section to appear immediately  
5 after section 231, as added in subsection (a);

6 (2) by redesignating section 204 through section  
7 207 as section 234 through section 237, respectively,  
8 and by transferring such sections to appear immediate-  
9 ly after section 233, as added in subsection (d);

10 (3) by redesignating section 217 as section 238,  
11 and by transferring such section to appear immediately  
12 after section 237, as so redesignated in paragraph (2);  
13 and

14 (4) by redesignating section 208 and section 209  
15 as section 239 and section 240, respectively, and by  
16 transferring such sections to appear immediately after  
17 section 238, as so redesignated in paragraph (3).

18 (c) Section 232(b)(2) of the Communications Act of  
19 1934, as so redesignated in subsection (b)(1), is amended—

20 (1) by striking out the comma after “shown” and  
21 inserting in lieu thereof “(A)”; and

22 (2) by inserting before the period at the end  
23 thereof the following: “; and (B) prescribe a different  
24 charge for an interim period, but not for a longer  
25 period than 1 year beyond the time when the charge

1 filed with the Commission would otherwise go into  
2 effect”.

3 (d) The Communications Act of 1934 (47 U.S.C. 151 et  
4 seq.) is amended by inserting after section 232, as so redesign-  
5 nated in subsection (b)(1), the following new section:

6 “INTRAEXCHANGE ACCESS FEES

7 “SEC. 233. (a) It is the purpose of this section to estab-  
8 lish a system of intraexchange access fees for the use of the  
9 services and facilities of intraexchange carriers by interex-  
10 change carriers and other customers and to modify the juris-  
11 dictional separation and settlements procedures established  
12 under section 276(c) and section 410(c) and in effect on the  
13 date of the enactment of the Telecommunications Act of  
14 1980, in order to—

15 “(1) achieve equality of treatment among all in-  
16 terexchange carriers and other customers using the  
17 services and facilities of each intraexchange carrier  
18 through direct or indirect interconnection for the distri-  
19 bution of interexchange telecommunications and to pre-  
20 vent subsidies from intraexchange carrier activities to  
21 interexchange carrier activities;

22 “(2) assure that payments and assignments of  
23 costs relating to access to intraexchange telecommuni-  
24 cations services and facilities by interexchange carriers  
25 and other customers are carried out in a manner which

1 is open to public examination and which ensures ac-  
2 countability to the public;

3 “(3) achieve flexibility in accommodating changes  
4 in market conditions and technology;

5 “(4) establish incentives for efficient investment  
6 decisions and technological choices; and

7 “(5) ensure that intraexchange carriers are com-  
8 pensated equitably for the costs of distributing interex-  
9 change telecommunications through the use of intraex-  
10 change services and facilities in order to ensure the  
11 continued universal availability of basic telecommunica-  
12 tions service provided by intraexchange carriers at rea-  
13 sonable and affordable rates.

14 “(b)(1) Subject to the provisions of subsection (c), each  
15 intraexchange carrier shall submit to the Commission a  
16 schedule of fees for the use of each of its basic switched serv-  
17 ices and facilities by all interexchange carriers and other cus-  
18 tomers which interconnect with such facilities. Provision of  
19 services and facilities by intraexchange carriers to interex-  
20 change carriers or other customers, and payment for such  
21 services and facilities, by interexchange carriers or other cus-  
22 tomers, shall be solely pursuant to schedules of access fees  
23 established under this section.

1       “(2) Each schedule of fees submitted by an intraex-  
2 change carrier under paragraph (1) shall consist of, and shall  
3 specifically identify—

4           “(A) all costs caused directly by interconnection  
5 and all costs caused directly by the volume of interex-  
6 change traffic, reflecting variances in the manner of in-  
7 terconnection and the services and facilities requested  
8 by and rendered to an interexchange carrier or other  
9 customer by such intraexchange carrier;

10          “(B) a portion of those other costs of intraex-  
11 change telecommunications services and facilities asso-  
12 ciated with both intraexchange telecommunications  
13 service and the distribution of interexchange telecom-  
14 munications service by such intraexchange carrier, as  
15 determined under section 231(e)(5), except that  
16 amounts in excess of the cost of the use of intraex-  
17 change telecommunications facilities determined by the  
18 transitional joint board to be necessary to avoid sub-  
19 stantial or undue rate increases shall be recovered by  
20 eligible carriers from the National Telecommunications  
21 Pool, and shall not be recovered by such carriers from  
22 access fees; and

23          “(C) any amount established and maintained  
24 under subsection (e)(1) and any amount established and  
25 maintained under subsection (e)(2).

1       “(3) Each schedule of fees shall include a certification  
2 by the intraexchange carrier submitting such schedule of fees  
3 that such intraexchange carrier is in compliance with the re-  
4 quirements of this section and section 216(b)(3).

5       “(4) Each schedule of fees shall take into account differ-  
6 ences in the manner of interconnection and the related serv-  
7 ices requested by and rendered to different interexchange  
8 carriers and other customers by an intraexchange carrier, for  
9 the purpose of ensuring that such differences are reflected in  
10 the various levels of such fees.

11       “(5) Except as provided in section 231(e)(2), no carrier  
12 shall include in such schedule of fees any costs associated  
13 with the provision of any service, facility, or product which is  
14 not subject to the regulatory authority of the Commission  
15 under this title or to the regulatory authority of any State  
16 commission.

17       “(6)(A) The Commission shall approve, disapprove, or  
18 modify any such schedule of fees to ensure that such fees are  
19 consistent with the provisions of this section. In the case of  
20 all schedules of fees which are submitted by an intraexchange  
21 carrier after the initial schedule of fees of such carrier is ap-  
22 proved by the Commission, the Commission shall take final  
23 action under this paragraph not later than 180 days after the  
24 date of such submission.

1       “(B) The Commission, before approving any schedule of  
2 fees, shall take such action as may be necessary to verify that  
3 the intraexchange carrier involved is in compliance with the  
4 requirements of this section and section 216(b)(3). If the  
5 Commission determines that such intraexchange carrier is  
6 not in compliance with such requirements, then the Commis-  
7 sion shall—

8               “(i) direct that such intraexchange carrier comply  
9 with such requirements not later than 1 year after the  
10 date of such determination; and

11               “(ii) establish an interim schedule of fees for use  
12 by such intraexchange carrier which is designed to  
13 ensure prompt compliance with such requirements.

14       “(c)(1) Any schedule of fees for access to any intraex-  
15 change telecommunications service or facility provided by  
16 any intraexchange carrier which, together with any affiliated  
17 intraexchange carrier, serves not more than 50,000 main sta-  
18 tions and equivalent stations shall be subject to the jurisdic-  
19 tion of the State commission for the State in which the serv-  
20 ice area of such intraexchange carrier is located. Such State  
21 commission shall have authority to approve, disapprove, or  
22 modify such schedule of fees in accordance with this Act and  
23 rules established by the Commission. The authority and re-  
24 sponsibilities of the Commission under subsection (b)(6)(B)  
25 shall apply to such State commission under this paragraph.



1       “(2) Any person may submit a petition to the Commis-  
2 sion alleging that a State commission is not exercising its  
3 regulatory authority in accordance with this Act or rules es-  
4 tablished by the Commission. If the Commission determines  
5 that a proper showing has been made by such person, then  
6 the Commission, after consultation with such State commis-  
7 sion, shall prescribe a schedule of fees which the Commission  
8 considers to be just and reasonable.

9       “(3)(A) The initial schedules of fees which are required  
10 to be established under subsection (b)(1) shall take effect at  
11 the end of the 3-year period following the date of the enact-  
12 ment of the Telecommunications Act of 1980. Before the ef-  
13 fective date of such schedules, all charges or other forms of  
14 reimbursement for access by interexchange carriers and other  
15 customers to intraexchange telecommunications services and  
16 facilities shall be governed by tariffs or contracts in effect as  
17 of June 1, 1980, except that the Commission may modify  
18 any such tariff or contract if such modification is required to  
19 carry out the purposes of this Act.

20       “(B) During the period beginning on the date on which  
21 access fees first take effect under subparagraph (A) and  
22 ending at the end of the 6-year period following the date of  
23 the enactment of the Telecommunications Act of 1980, uni-  
24 form adjustments shall be made—

1           “(i) in the relative allocation of the amount as-  
2           signed by the transitional joint board to interexchange  
3           telecommunications services under section 231(e)(5) to  
4           be paid by different carriers and classes of service; and

5           “(ii) in the relative allocation of the total amount  
6           necessary annually for the account established in sub-  
7           section (e)(3) to be paid by different carriers and  
8           classes of service.

9           Such adjustments shall be made to ensure that all carriers  
10          and other customers make an equitable and orderly transition  
11          from the level of reimbursements made as of the day before  
12          the date on which access fees first take effect under subpara-  
13          graph (A) to the level of reimbursements which will be paid  
14          under subsection (b) and subsection (e).

15          “(d)(1) There hereby is established a National Telecom-  
16          munications Pool, the administration of which shall be over-  
17          seen by the transitional joint board.

18          “(2) The National Telecommunications Pool shall con-  
19          sist of the accounts specified in subsection (e).

20          “(e)(1)(A) The National Telecommunications Pool shall  
21          include an account consisting of the total amount determined  
22          by the transitional joint board to be needed annually by eligi-  
23          ble intraexchange carriers to ensure that the costs of such  
24          carriers for the distribution of interexchange telecommunica-  
25          tions service and intraexchange telecommunications service

1 per main station or equivalent station which, in the aggre-  
2 gate, exceed 110 percent of the national average of such  
3 costs will not be borne directly by intraexchange rate payers  
4 or by access fees.

5       “(B) All interexchange carriers and other customers di-  
6 rectly connecting to basic telecommunications service pro-  
7 vided by intraexchange carriers shall make nondiscriminatory  
8 payments to such account based upon the annual ratio of the  
9 payments of each such carrier or other customer for such  
10 interconnection under subsection (b)(2)(A) and subsection  
11 (b)(2)(B) to the total of such payments by all such directly  
12 connecting interexchange carriers and other customers, pur-  
13 suant to subsection (b)(2)(C). All traffic indirectly connecting  
14 to basic telecommunications service of an intraexchange car-  
15 rier shall be assessed nondiscriminatory payments to such ac-  
16 count in equivalent amounts for equivalent usage of such  
17 service.

18       “(C) Intraexchange carriers which, together with any  
19 affiliated intraexchange carriers, serve not more than 50,000  
20 main stations and equivalent stations, and which certify to  
21 the transitional joint board that their costs for the distribution  
22 of interexchange telecommunications service and intraex-  
23 change telecommunications service per main station or equiv-  
24 alent station, in the aggregate, exceed 110 percent of the  
25 national average of such costs shall be eligible for payments

1 from the account established in this paragraph and shall be  
2 entitled to receive payments for that portion of their costs  
3 which exceeds 110 percent of such national average. The  
4 transitional joint board shall have authority to designate by  
5 rule other intraexchange carriers with high costs for the dis-  
6 tribution of intraexchange telecommunications service and in-  
7 terexchange telecommunications service for payments from  
8 such account, subject to such modifications as the transitional  
9 joint board considers appropriate.

10       “(2)(A) The National Telecommunications Pool also  
11 shall include an account to minimize disparities in charges for  
12 basic telecommunications service provided by carriers which  
13 arise due to greater costs of providing connecting links for  
14 such service to and from, or between, rural or other remote  
15 areas. The transitional joint board shall establish the total  
16 amount necessary annually for such account. All interex-  
17 change carriers and other customers directly connecting to  
18 basic telecommunications service provided by intraexchange  
19 carriers shall make nondiscriminatory payments to such ac-  
20 count based upon the annual ratio of the payments of each  
21 such carrier or other customer for such interconnection under  
22 subsection (b)(2)(A) and subsection (b)(2)(B) to the total of  
23 such payments by all such directly connecting interexchange  
24 carriers and other customers, pursuant to subsection  
25 (b)(2)(C). All traffic indirectly connecting to basic telecommu-

1 nications service of an intraexchange carrier shall be assessed  
2 nondiscriminatory payments to such account in equivalent  
3 amounts for equivalent usage of such service.

4       “(B) If such disparities in charges for basic telecommu-  
5 nications service would arise without payments from such ac-  
6 count, the transitional joint board shall order payments to  
7 eligible carriers for such costs to achieve charges to custom-  
8 ers which do not exceed 110 percent of the national average  
9 charge for comparable service.

10       “(3)(A) The National Telecommunications Pool also  
11 shall include an account consisting of the total amount  
12 needed annually by intraexchange carriers (as determined by  
13 the transitional joint board), in excess of revenues from in-  
14 traexchange access fees and any payments from the account  
15 established in paragraph (1) or paragraph (2) to be collected  
16 by an intraexchange carrier, to provide for an orderly transi-  
17 tion from the level of payment pursuant to jurisdictional sep-  
18 aration and settlements procedures established under section  
19 276(c) and section 410(c) and in effect on June 1, 1980, to  
20 the level of payment, based only upon costs, available to in-  
21 traexchange carriers under the system of intraexchange  
22 access fees established in subsection (b)(2), for the purpose of  
23 avoiding substantial or undue increases in charges for basic  
24 telecommunications service provided by intraexchange carri-

1 ers which are beyond the control of an intraexchange carrier  
 2 and which are caused by such transition.

3 “(B) The transitional joint board shall impose sur-  
 4 charges sufficient to recover the total amount necessary an-  
 5 nually for the account established in this paragraph upon—

6 “(i) all interexchange carriers and private tele-  
 7 communications systems directly connecting to basic  
 8 telecommunications service provided by intraexchange  
 9 carriers, based upon the annual ratio of the payments  
 10 of each such carrier or system for such interconnection  
 11 under subsection (b)(2)(A) and subsection (b)(2)(B) to  
 12 the total of such payments by all such interexchange  
 13 carriers and systems; and

14 “(ii) all traffic indirectly connecting to basic tele-  
 15 communications service of an intraexchange carrier in  
 16 equivalent amounts for equivalent usage of such  
 17 service.

18 The transitional joint board periodically shall order such pay-  
 19 ments to intraexchange carriers as may be necessary to carry  
 20 out the purposes of the account established in this paragraph  
 21 and the purposes of this section.

22 “(C) The transitional joint board shall establish and pub-  
 23 lish a plan for such transition and the operation of such  
 24 account.

1       “(f)(1) The National Telecommunications Pool shall be  
2 administered in a manner which expedites the disbursement  
3 of funds from the National Telecommunications Pool to eligi-  
4 ble carriers through the use of rules and procedures which  
5 eliminate burdens or delays in the certification or application  
6 process to the maximum extent practicable, and which permit  
7 disbursement decisions to be made on the basis of uniform,  
8 general, simplified standards of eligibility which are readily  
9 applied to the information and other data included in each  
10 application.

11       “(2) Payments from the National Telecommunications  
12 Pool to individual carriers ordered by the transitional joint  
13 board shall be subject to subsequent audit and adjustment by  
14 the transitional joint board to determine and to ensure that—

15               “(A) any certification or application is valid and  
16 based upon proper allocation of costs pursuant to  
17 guidelines established by the transitional joint board or  
18 the Commission, as the case may be;

19               “(B) such payments are used to carry out the pur-  
20 poses for which they were intended; and

21               “(C) such payments do not remove incentives for  
22 the efficient provision of basic telecommunications serv-  
23 ice, except that any adjustment based upon the factor  
24 established in this subparagraph shall be effective only  
25 on a prospective basis.





1           (3) by redesignating section 215 as section 253,  
2           and by transferring such section to appear immediately  
3           after section 252, as so redesignated in paragraph (2);  
4           and

5           (4) by striking out section 218.

6           (c) Section 252(b) of the Communications Act of 1934,  
7           as so redesignated in subsection (b)(2), is amended to read as  
8           follows:

9           “(b)(1) The transitional joint board shall establish and  
10          prescribe—

11           “(A) the classes of property used by any dominant  
12          carrier or other regulated carrier for the provision of  
13          telecommunications services which are subject to the  
14          regulatory authority of the Commission under this title  
15          or to the regulatory authority of any State commission;  
16          and

17           “(B) the methods by which investments in such  
18          classes of property may be recovered.

19           “(2) The methods specified in paragraph (1)(B) may in-  
20          clude capital recovery schedules or percentage depreciation  
21          schedules. Such methods shall—

22           “(A) provide for the full recovery of any unrecover-  
23          ed amount of invested capital not later than the end  
24          of the remaining life of the property involved;

1           “(B) permit not more than the full amount of in-  
2           vested capital to be recovered;

3           “(C) for property used by a regulated carrier, in-  
4           clude, as an allowable operating expense for rate-  
5           making purposes, depreciation computed under any  
6           accelerated methods selected by such regulated carrier,  
7           except that (i) the initial selection shall apply only to  
8           property placed in service on or after the first day of  
9           the first calendar year which begins after the date of  
10          the enactment of the Telecommunications Act of 1980;  
11          and (ii) any subsequent changes in such selection shall  
12          apply only to property placed in service on or after the  
13          date of such selection; and

14          “(D) for property already in service on the first  
15          day of the first calendar year which begins after the  
16          date of the enactment of the Telecommunications Act  
17          of 1980, include as an allowable operating expense for  
18          ratemaking purposes such amounts as may be neces-  
19          sary to recover all embedded invested capital through  
20          the use of the remaining life method of capital recov-  
21          ery.

22          “(3) Any determination of the remaining life of property  
23          under paragraph (2) shall take into consideration competition,  
24          changes in technology, and remaining economic life.

1       “(4) Upon the termination of the transitional joint board,  
2 the Commission shall refer matters arising under this subsec-  
3 tion to a Federal-State Joint Board under section 410(c).  
4 The Commission and such Federal-State Joint Board shall  
5 have authority to establish, prescribe, implement, or change  
6 classes of property and methods of depreciation only in ac-  
7 cordance with the foregoing provisions of this subsection.”.

8       (d) The Communications Act of 1934 (47 U.S.C. 151 et  
9 seq.) is amended by inserting after section 253, as so redesign-  
10 nated in subsection (b)(3), the following new sections:

11               “ACCOUNTING SYSTEMS AND PRACTICES

12       “SEC. 254. (a) Each dominant carrier or other regulated  
13 carrier shall maintain a system of accounting methods, proce-  
14 dures, and techniques (including accounts and supporting rec-  
15 ords and memoranda) which shall be established and enforced  
16 by the Commission to ensure—

17               “(1) a proper allocation of all costs to and among  
18 telecommunications services, facilities, and products  
19 (and to and among classes of such services, facilities,  
20 and products) which—

21               “(A) are developed, manufactured, or offered  
22 by such dominant carrier or any affiliated organi-  
23 zation; or

24               “(B) are developed, manufactured, or offered  
25 by any such regulated carrier or any affiliated or-

1           ganization and are subject to the regulatory au-  
2           thority of the Commission under this title; and

3           “(2) a complete separation between—

4                 “(A) all costs related to services, facilities,  
5                 and products which are developed, manufactured,  
6                 or offered—

7                         “(i) by such dominant carrier, or any af-  
8                         filiated organization (other than the costs of  
9                         any activities which are carried out for the  
10                        benefit of any fully separated subsidiary of  
11                        such dominant carrier or any affiliated orga-  
12                        nization); or

13                       “(ii) by such regulated carrier or any af-  
14                       filiated organization, to the extent such serv-  
15                       ices, facilities, or products are subject to the  
16                       regulatory authority of the Commission or to  
17                       the regulatory authority of any State com-  
18                       mission; and

19                 “(B) all costs related to services, facilities,  
20                 and products which are developed, manufactured,  
21                 or offered—

22                       “(i) by any fully separated subsidiary of  
23                       a dominant carrier, or of any affiliated orga-  
24                       nization, or as the result of any activities  
25                       which are carried out for the benefit of any

1 fully separated subsidiary of such dominant  
2 carrier or any affiliated organization; or

3 “(ii) by any regulated carrier or any af-  
4 filiated organization, to the extent such serv-  
5 ices, facilities, or products are not subject to  
6 any regulatory authority specified in subpar-  
7 agraph (A)(ii).

8 The Commission shall establish such system not later than 2  
9 years after the date of the enactment of the Telecommunica-  
10 tions Act of 1980. The Commission shall consult with State  
11 commissions in establishing that portion of such system  
12 which is required in paragraph (1).

13 “(b) The Commission shall have authority to waive any  
14 of the accounting requirements established by the Commis-  
15 sion under subsection (a) with respect to any carrier (other  
16 than any dominant carrier).

17 “(c)(1) The Commission shall submit an interim report  
18 to each House of the Congress not later than 18 months after  
19 the date of the enactment of the Telecommunications Act of  
20 1980. Such report shall include a summary of action taken by  
21 the Commission to establish the accounting system required  
22 in subsection (a), together with such other information as the  
23 Commission considers appropriate.

24 “(2) The Commission shall submit a final report to each  
25 House of the Congress as soon as practicable after the estab-

1 lishment by the Commission of the accounting system re-  
2 quired in subsection (a). Such report shall include a detailed  
3 explanation of the manner in which the accounting methods,  
4 procedures, and techniques contained in such system are in-  
5 tended to operate, together with such other information as  
6 the Commission considers appropriate.

7 "NETWORK MANAGEMENT

8 "SEC. 255. (a) Subject to the provisions of subsection  
9 (b), any carrier may engage in any meeting with any other  
10 carrier for purposes of planning or agreeing to—

11 "(1) the design, plan (including the establishment  
12 of through routes), construction, operation, and mainte-  
13 nance of any network of telecommunications services  
14 or facilities;

15 "(2) the development of technical standards appli-  
16 cable to such services and facilities; and

17 "(3) any tariff for the provision of joint and  
18 through services, except that carriers shall not have  
19 any authority to meet under this section for purposes  
20 of planning or agreeing to any such tariff unless the  
21 provisions of such tariff are consistent with the require-  
22 ments of section 211(c) and with the manner in which  
23 intraexchange access fees are established, and National  
24 Telecommunications Pool funds are distributed, under  
25 section 233.

1       “(b)(1) Except as provided in paragraph (3), any meet-  
2 ing specified in subsection (a) shall take place after reason-  
3 able notice is given by the carriers involved to the Commis-  
4 sion, and a representative of the Commission shall be given  
5 an opportunity to attend, or otherwise monitor, any such  
6 meeting at the time it is conducted. The Commission shall  
7 make any such notice available at the offices of the Commis-  
8 sion for public inspection immediately upon receipt of such  
9 notice by the Commission. The failure of the Commission to  
10 exercise such authority to attend or otherwise monitor a  
11 meeting shall not impair the authority of such carriers to con-  
12 duct such meeting under this section.

13       “(2) Except as provided in paragraph (3), a transcript of  
14 each meeting shall be filed immediately with the Commission  
15 and shall be available at the offices of the Commission for  
16 public inspection not later than 30 days after the meeting  
17 involved is conducted, except that no transcript made availa-  
18 ble to the public may contain any material the disclosure of  
19 which, in the opinion of the Commission, could adversely  
20 affect the national defense and security or the emergency  
21 preparedness of the Nation.

22       “(3) The requirements applicable to carriers in para-  
23 graph (1) and paragraph (2) shall not apply in the case of any  
24 meeting for any purpose specified in subsection (a) which re-  
25 lates to any particular telecommunications service or facility

1 if the carriers involved in such meeting are not in competition  
2 with each other with respect to the offering of such service or  
3 facility.

4 “(c) The Commission, upon its own initiative, upon the  
5 request of any interested carrier or other person, or upon the  
6 request of any Federal agency, shall have authority to re-  
7 quire carriers to engage in meetings for the purpose of—

8 “(1) assuring the establishment and maintenance  
9 of appropriate networks of telecommunications services  
10 and facilities; and

11 “(2) maintaining the national defense and security  
12 and the emergency preparedness of the Nation.

13 “(d)(1) Nothing contained in this section shall be con-  
14 strued—

15 “(A) to authorize any meeting or other conduct  
16 among carriers the purpose of which is to engage in  
17 any activity which is prohibited by the Federal anti-  
18 trust laws; or

19 “(B) to otherwise limit or affect the application of  
20 the Federal antitrust laws.

21 “(2) For purposes of this subsection, the term ‘Federal  
22 antitrust laws’ means—

23 “(A) the Sherman Act (15 U.S.C. 1 et seq.), sec-  
24 tion 73 through section 77 of the Wilson Tariff Act  
25 (15 U.S.C. 8–11), the Act entitled ‘An Act to amend



1 sections 73 and 76 of the Act of August 27, 1894, en-  
 2 titled "An Act to reduce taxation, to provide revenue  
 3 for the Government, and for other purposes'", ap-  
 4 proved February 12, 1913, the Clayton Act (15  
 5 U.S.C. 12 et seq.), and section 5 of the Federal Trade  
 6 Commission Act (15 U.S.C. 45); and

7 "(B) any law enacted after the date of the enact-  
 8 ment of the Telecommunications Act of 1980 by the  
 9 Congress which prohibits, or makes available to the  
 10 United States in any court of the United States any  
 11 civil remedy with respect to, any restraint upon, or  
 12 monopolization of, interstate or foreign trade or  
 13 commerce."

14 MISCELLANEOUS PROVISIONS OF TITLE II OF  
 15 COMMUNICATIONS ACT OF 1934

16 SEC. 5. (a) The Communications Act of 1934 (47  
 17 U.S.C. 151 et seq.) is amended by inserting after section  
 18 255, as added in section 4(d), the following heading:

19 "PART D—MISCELLANEOUS".

20 (b) The Communications Act of 1934 (47 U.S.C. 151 et  
 21 seq.) is amended—

22 (1) by redesignating section 210 through section  
 23 212 as section 271 through section 273, and by trans-  
 24 ferring such sections to appear immediately after the

1 heading for part D of title II of the Communications  
2 Act of 1934, as added in subsection (a);

3 (2) by redesignating section 216 as section 274,  
4 and by transferring such section to appear immediately  
5 after section 273, as so redesignated in paragraph (1);

6 (3) by redesignating section 219 as section 275,  
7 and by transferring such section to appear immediately  
8 after section 274, as so redesignated in paragraph (2);  
9 and

10 (4) by redesignating section 221 through section  
11 224 as section 276 through section 279, respectively,  
12 and by transferring such sections to appear immedi-  
13 ately after section 275, as so redesignated in para-  
14 graph (3).

15 (c) The Communications Act of 1934 (47 U.S.C. 151 et  
16 seq.) is amended by inserting after section 279, as so redesi-  
17 gnated in subsection (b)(4), the following new sections:

18 “NATIONAL DEFENSE AND EMERGENCY PREPAREDNESS

19 “SEC. 280. (a) The President shall have authority to  
20 require any carrier subject to the provisions of this Act to  
21 furnish telecommunications services or facilities to any Fed-  
22 eral agency if the President determines that—

23 “(1) the provision of such services or facilities is  
24 necessary or appropriate to promote the national de-

1 fense and security or the emergency preparedness of  
2 the Nation;

3 “(2)(A) there is a threat of war with a foreign  
4 nation, the Nation is at war with a foreign nation, or  
5 there exists a state of public peril or disaster or other  
6 national emergency; or

7 “(B) in order to provide for the national defense  
8 and security or the emergency preparedness of the  
9 Nation, there is an immediate need for such services  
10 and facilities, and such need cannot be met through re-  
11 liance upon any other source of supply; and

12 “(3) all other means of obtaining such services  
13 and facilities have been exhausted.

14 “(b) The provisions of section 606(e) shall apply in the  
15 case of any determination made by the President under this  
16 section.

17 “PUBLIC PARTICIPATION IN COMMISSION PROCEEDINGS  
18 AND TRANSITIONAL JOINT BOARD PROCEEDINGS

19 “SEC. 281. (a) The Commission is authorized to provide  
20 financial assistance for the direct costs of participation (in-  
21 cluding the costs of attorneys and expert witnesses) by any  
22 person in any proceeding of the Commission under this title  
23 in which there may be public participation pursuant to any  
24 Federal law, or pursuant to any rule or practice of the Com-

1 mission. Financial assistance is authorized in any case in  
2 which—

3 “(1) the person applying for assistance represents  
4 an interest—

5 “(A) which would not otherwise be repre-  
6 sented adequately in such proceeding; and

7 “(B) representation of which is necessary for  
8 a fair disposition of the proceeding; and

9 “(2) the person applying for such assistance does  
10 not have sufficient resources available to participate ef-  
11 fectively in the proceeding in the absence of financial  
12 assistance.

13 “(b) Upon approving an application for financial assist-  
14 ance under this section, the Commission shall enter into a  
15 written agreement with the person who submitted the appli-  
16 cation. Such agreement shall—

17 “(1) specify the nature and extent of the represen-  
18 tation to be provided by the person during the proceed-  
19 ing;

20 “(2) include procedures for examination and  
21 review by the Commission of the expenditures made by  
22 the person to provide such representation; and

23 “(3) specify the extent to which the financial as-  
24 sistance is to be provided in the form of advance pay-  
25 ments.

1       “(c) The Commission shall not provide assistance under  
2 this section of more than \$75,000 to any person for any fiscal  
3 year or for any proceeding.

4       “(d) Any person who receives financial assistance under  
5 this section shall be liable for repayment of all or part of such  
6 assistance whenever the Commission determines that—

7             “(1) such person has not provided the representa-  
8 tion for which financial assistance was made available;  
9 or

10            “(2) such person acted in a manner demonstrating  
11 bad faith toward the Commission or another participant  
12 in the proceeding.

13       “(e) Not later than 90 days after the date of the enact-  
14 ment of the Telecommunications Act of 1980, the Commis-  
15 sion shall propose and publish for comment rules to carry out  
16 the provisions of this section. The Commission shall adopt  
17 and put into effect such rules not later than 180 days after  
18 such date of enactment.

19       “(f) Any person seeking judicial review of any determi-  
20 nation made by the Commission under this section regarding  
21 financial assistance may petition for such review after the  
22 Commission takes final action in the proceeding with respect  
23 to which such determination regarding financial assistance is  
24 made. No such petition may be brought before such final  
25 action is taken by the Commission.

1       “(g)(1) The aggregate amount of funds available for the  
2 payment of compensation to small business concerns in any  
3 one of the fiscal years for which funds are authorized to be  
4 appropriated under this section shall be equal to 25 percent  
5 of the aggregate amount of funds appropriated under this sec-  
6 tion for such fiscal year.

7       “(2) For purposes of this subsection, the term ‘small  
8 business concern’ means any private business, organization,  
9 or other enterprise which employs not more than 25  
10 employees.

11       “(h) The provisions of this section shall apply to any  
12 proceeding conducted by the transitional joint board. The  
13 transitional joint board shall comply with the requirements of  
14 subsection (e).

15       “(i) There is authorized to be appropriated for the pur-  
16 pose of carrying out the provisions of this section with regard  
17 to proceedings before the Commission \$750,000 for each of  
18 the fiscal years 1982, 1983, 1984, and 1985.

19       “(j) There is authorized to be appropriated for the pur-  
20 pose of carrying out the provisions of this section with regard  
21 to proceedings before the transitional joint board \$500,000  
22 for each of the fiscal years 1982, 1983, 1984, and 1985.”.

## 1 RECIPROCIDTY

2 SEC. 6. Section 2 of the Communications Act of 1934  
3 (47 U.S.C. 152) is amended by adding at the end thereof the  
4 following new subsection:

5 “(c)(1) The Commission shall have authority to conduct  
6 inquiries, and establish policies, rules, regulations, and re-  
7 quirements, applicable to permitting the entry of foreign tele-  
8 communications services and foreign telecommunications  
9 carriers into domestic United States telecommunications  
10 markets upon terms and conditions which are reciprocal with  
11 the terms and conditions under which United States telecom-  
12 munications services and United States telecommunications  
13 carriers are permitted entry into—

14 “(A) the foreign nation in which the operations of  
15 such foreign telecommunications service or such foreign  
16 telecommunications carrier are based; or

17 “(B) the foreign nation under the laws of which  
18 such foreign telecommunications service or such foreign  
19 telecommunications carrier is established.

20 No other provision of this Act shall be construed to limit or  
21 otherwise restrict the authority of the Commission estab-  
22 lished in this paragraph.

23 “(2) In carrying out its authority under paragraph (1),  
24 the Commission shall have the authority to inquire into any  
25 charge, practice, classification, requirement, or provision of a

1 service, facility, or product by any carrier in order to deter-  
2 mine if such charge, practice, classification, requirement, or  
3 provision of a service, facility, or product is just and reason-  
4 able, promotes the public convenience and necessity, and en-  
5 sures the equitable treatment and competitive position of  
6 United States enterprises in international markets.

7       “(3) The Commission shall adopt such rules, regula-  
8 tions, policies, requirements, and procedures, and may  
9 impose such restrictions upon a foreign telecommunications  
10 carrier or a foreign telecommunications service, as it deter-  
11 mines to be necessary or appropriate to carry out the provi-  
12 sions of this subsection and to carry out its determinations  
13 under this subsection.

14       “(4)(A) In conducting any inquiry under paragraph (1),  
15 the Commission shall request and consider the views of the  
16 Secretary of State and the United States Trade Representa-  
17 tive.

18       “(B) The President may, not later than 45 days after  
19 any final determination of the Commission regarding the im-  
20 position of reciprocal restrictions upon a foreign telecommu-  
21 nications carrier or a foreign telecommunications service,  
22 veto such final determination if the President determines that  
23 such final determination will injure the foreign policy inter-  
24 ests of the United States.



1       “(C) If the President decides to take any action under  
2 this paragraph, he shall publish notice of his determination,  
3 including the reasons for the determination, in the Federal  
4 Register. Unless he determines that expeditious action is re-  
5 quired, the President shall provide an opportunity for the  
6 presentation of views concerning the taking of such action.

7       “(5) For purposes of this subsection:

8           “(A) The term ‘foreign telecommunications car-  
9 rier’ means any common carrier which is—

10               “(i) an alien or the representative of an alien;

11               “(ii) a foreign government or representative  
12 of a foreign government;

13               “(iii) a corporation, partnership, joint ven-  
14 ture, or other legal entity organized or established  
15 under the laws of a foreign nation; or

16               “(iv) a corporation more than 20 percent of  
17 the capital stock of which is owned of record or  
18 voted by or on behalf of, an alien or the repre-  
19 sentative of an alien, a foreign government or rep-  
20 resentative of a foreign government, or a corpora-  
21 tion, partnership, joint venture, or other legal  
22 entity organized or established under the laws of  
23 a foreign nation.

24           “(B) The term ‘foreign telecommunications serv-  
25 ice’ means any telecommunications service or related

1 service provided by or through the facilities of a car-  
 2 rier, more than 20 percent of the revenues or profit of  
 3 which accrues (or would accrue if disbursements were  
 4 made) to—

5 “(i) an alien or the representative of an alien;

6 “(ii) a foreign government or representative  
 7 of a foreign government;

8 “(iii) a corporation, partnership, joint ven-  
 9 ture, or other legal entity organized or established  
 10 under the laws of a foreign nation; or

11 “(iv) a corporation more than 20 percent of  
 12 the capital stock of which is owned of record or  
 13 voted by or on behalf of, an alien or the repre-  
 14 sentative of an alien, a foreign government or rep-  
 15 resentative of a foreign government, or a corpora-  
 16 tion, partnership, joint venture, or other legal  
 17 entity organized or established under the laws of  
 18 a foreign nation.”.

19 **UNAUTHORIZED INTERCEPTION AND USE OF**

20 **SUBSCRIPTION TELECOMMUNICATIONS**

21 **SEC. 7. The Communications Act of 1934 (47 U.S.C.**  
 22 **15 et seq.) is amended by inserting after section 5 the follow-**  
 23 **ing new section:**

1           “UNAUTHORIZED INTERCEPTION AND USE OF  
2                           SUBSCRIPTION TELECOMMUNICATIONS

3           “SEC. 6. (a)(1) Except as provided in paragraph (4), a  
4 person who—

5                   “(A) knowingly carries out an unauthorized inter-  
6 ception of a subscription telecommunication; or

7                   “(B) knowingly attempts to carry out, or con-  
8 spires to carry out, an unauthorized interception;

9 shall be liable for civil penalties under subsection (b) and shall  
10 be subject to criminal penalties under subsection (c)(1).

11           “(2) Except as provided in paragraph (4), a person  
12 who—

13                   “(A) knowingly carries out an unauthorized inter-  
14 ception of a subscription telecommunication; and

15                   “(B) knowingly uses the subscription telecommu-  
16 nication for his own commercial advantage or financial  
17 gain, or for the commercial advantage or financial gain  
18 of any other person;

19 shall be liable for civil penalties under subsection (b) and shall  
20 be subject to criminal penalties under subsection (c)(2).

21           “(3) For purposes of this subsection, the interception of  
22 a subscription telecommunication by any person shall not be  
23 considered an unauthorized interception if—

24                   “(A) such person is the originator of the subscrip-  
25 tion telecommunication, or his agent;

1           “(B) such person has agreed to pay a fee or  
2 charge to the person originating the subscription tele-  
3 communication, or his agent, for the use of the sub-  
4 scription telecommunication;

5           “(C) such person has entered into any other con-  
6 tractual arrangement or any other agreement under  
7 which such person is entitled to receive the subscrip-  
8 tion telecommunication from the person originating the  
9 subscription telecommunication, or his agent; or

10          “(D) such person has reasonable cause to believe  
11 that such person is entitled to receive the subscription  
12 telecommunication from the person originating the sub-  
13 scription telecommunication, or his agent.

14          “(4) The manufacture, shipment in commerce, distribu-  
15 tion, sale, lease, or demonstration for sale of a satellite Earth  
16 station shall not by itself constitute a violation of this section.

17          “(5) The provisions of paragraph (1) and paragraph (2)  
18 shall not apply to any interception which is authorized under  
19 chapter 119 of title 18, United States Code.

20          “(b)(1)(A) Except as provided in subparagraph (B), any  
21 person who is aggrieved by any violation of subsection (a)  
22 may commence a civil action for actual damages, for dam-  
23 ages under paragraph (2), and for equitable relief against the  
24 person who is alleged to have committed the violation.

1       “(B) No civil action may be commenced under subpara-  
2 graph (A) after the end of the 2-year period following the  
3 date of the discovery of the alleged violation, or the 7-year  
4 period following the date of the occurrence of the alleged  
5 violation, whichever occurs first.

6       “(2) Any person who violates subsection (a) shall be  
7 liable to any aggrieved person for damages in the amount of  
8 \$100 per day for each day in which the violation occurs,  
9 except that any damages awarded under this paragraph shall  
10 not be more than \$1,000.

11       “(3) In any civil action under this subsection in which  
12 the court determines that the plaintiff substantially has pre-  
13 vailed, the court may assess against the defendant reasonable  
14 attorney fees and other costs of litigation reasonably  
15 incurred.

16       “(4) Any civil action under this subsection may be com-  
17 menced in any United States district court of competent  
18 jurisdiction, without regard to the amount in controversy, or  
19 in any other court of competent jurisdiction.

20       “(c)(1) Any person who violates subsection (a)(1) shall  
21 be fined not more than \$25,000, or imprisoned for not more  
22 than 1 year, or both.

23       “(2) Any person (other than an individual) who violates  
24 subsection (a)(2) shall be fined not more than \$1,000,000.  
25 Any individual who violates subsection (a)(2) shall be fined

1 not more than \$250,000, or imprisoned for not more than 18  
2 months, or both. If the conviction is for a violation committed  
3 after the first conviction of the individual under this para-  
4 graph, the individual shall be fined not more than \$250,000,  
5 or imprisoned for not more than 40 months, or both.

6 “(d) The penalties established in this section shall be in  
7 lieu of any penalties established in any other provision of this  
8 Act.

9 “(e) For purposes of this section:

10 “(1) The term ‘basic telecommunications service’  
11 has the meaning given it in section 202(2).

12 “(2) The term ‘decoding device’ means any appa-  
13 ratus the sole design and function of which are to  
14 make intelligible subscription telecommunications  
15 which intentionally are modified, altered, or changed  
16 by the person originating such subscription telecommu-  
17 nications to make them unintelligible.

18 “(3) The term ‘interception’ means the receipt of  
19 any subscription telecommunication provided by or  
20 through the facilities of a carrier.

21 “(4) The term ‘satellite Earth station’ means any  
22 apparatus (or any component part of an apparatus),  
23 except any decoding device, designed to receive tele-  
24 communications from a transmitter or transmitter relay  
25 located in planetary or solar orbit.



1 (c) Section 232(e) of the Communications Act of 1934,  
2 as so redesignated in section 3(b)(1), is amended by striking  
3 out “the sum of \$500” and inserting in lieu thereof “an  
4 amount assessed by the Commission in accordance with the  
5 procedure established in paragraph (2) and paragraph (3)(A)  
6 of section 503(b), which shall not exceed \$100,000,” and by  
7 striking out “\$25” and inserting in lieu thereof “an amount  
8 assessed by the Commission in accordance with such proce-  
9 dure, which shall not exceed \$5,000.”

10 (d) Section 235(b) of the Communications Act of 1934,  
11 as so redesignated in section 3(b)(2), is amended by striking  
12 out “the sum of \$1,000” and inserting in lieu thereof “an  
13 amount assessed by the Commission in accordance with the  
14 procedure established in paragraph (2) and paragraph (3)(A)  
15 of section 503(b), which shall not exceed \$25,000.”

16 (e)(1) Section 252(d) of the Communications Act of  
17 1934, as so redesignated in section 4(b)(2), is amended by  
18 striking out “the sum of \$500” and inserting in lieu thereof  
19 “an amount assessed by the Commission in accordance with  
20 the procedure established in paragraph (2) and paragraph  
21 (3)(A) of section 503(b), which shall not exceed \$100,000.”

22 (2) Section 252(e) of the Communications Act of 1934,  
23 as so redesignated in section 4(b)(2), is amended by striking  
24 out “\$1,000” and inserting in lieu thereof “\$10,000”, and by



1 striking out “\$5,000” and inserting in lieu thereof  
2 “\$100,000”.

3 (f) Section 275(b) of the Communications Act of 1934,  
4 as so redesignated in section 5(b)(3), is amended by striking  
5 out “the sum of \$100” and inserting in lieu thereof “an  
6 amount assessed by the Commission in accordance with the  
7 procedure established in paragraph (2) and paragraph (3)(A)  
8 of section 503(b), which shall not exceed \$2,500,”.

9 (g)(1) The first sentence of section 503(b)(2) of the Com-  
10 munications Act of 1934 (47 U.S.C. 503(b)(2)) is amended—

11 (A) by inserting “\$5,000 for each violation, in the  
12 case of a dominant carrier or other regulated carrier,  
13 or” after “exceed”; and

14 (B) by inserting “, in the case of any other  
15 person” before the period at the end thereof.

16 (2) Section 503(b)(2) of the Communications Act of  
17 1934 (47 U.S.C. 503(b)(2)) is amended—

18 (A) by redesignating subparagraph (A) and sub-  
19 paragraph (B) as subparagraph (B) and subparagraph  
20 (C), respectively, and by inserting before subparagraph  
21 (B), as so redesignated, the following new subpara-  
22 graph:

23 “(A) \$500,000, if the violator is a dominant  
24 carrier or other regulated carrier;”;

1 (B) in subparagraph (B) thereof, as so redesignat-  
2 ed in subparagraph (A), by inserting “(other than a  
3 dominant carrier or other regulated carrier)” after  
4 “this Act”; and

5 (C) in subparagraph (C) thereof, as so redesignat-  
6 ed in subparagraph (A), by inserting “or subparagraph  
7 (B)” before the period at the end thereof.

8 (h) Section 504 of the Communications Act of 1934 (47  
9 U.S.C. 504) is amended by adding at the end thereof the  
10 following new subsection:

11 “(d) In any case in which a carrier is required to pay  
12 any forfeiture penalty under any provision of this Act, such  
13 forfeiture penalty shall not be allowed as an operating ex-  
14 pense for ratemaking purposes.”.

15 **APPLICATION OF ANTITRUST LAWS**

16 **SEC. 9. (a)** The amendments to the Communications  
17 Act of 1934 (47 U.S.C. 151 et seq.) made by this Act shall  
18 not be construed—

19 (1) to create any immunity to any civil or criminal  
20 action under any Federal antitrust law, or to alter or  
21 restrict in any manner the applicability of any Federal  
22 antitrust law;

23 (2) to express any intention of the Congress with  
24 respect to the issues of liability or appropriate relief,  
25 including structural relief, in any antitrust litigation

1       which is pending on the date of the enactment of this  
2       Act, or which may be commenced after such date of  
3       enactment, and in which any person subject to the  
4       Communications Act of 1934 (47 U.S.C. 151 et seq.),  
5       as amended by this Act, including any fully separated  
6       subsidiary of a dominant carrier, is a party;

7               (3) to limit or affect in any manner the ability of  
8       the courts of the United States to determine liability or  
9       to grant appropriate relief, including structural relief,  
10      in any antitrust litigation in which any person subject  
11      to the Communications Act of 1934 (47 U.S.C. 151 et  
12      seq.), as amended by this Act, is a party; or

13              (4) to prohibit the treatment of a dominant carrier  
14      and any fully separated subsidiary of such dominant  
15      carrier as separate persons for purposes of the Federal  
16      antitrust laws.

17      (b) For purposes of this section, the term "Federal anti-  
18      trust laws" means—

19              (1) the Sherman Act (15 U.S.C. 1 et seq.), sec-  
20      tion 73 through section 77 of the Wilson Tariff Act  
21      (15 U.S.C. 8-11), the Act entitled "An Act to amend  
22      sections 73 and 76 of the Act of August 27, 1894, en-  
23      titled 'An Act to reduce taxation, to provide revenue  
24      for the Government, and for other purposes'", ap-  
25      proved February 12, 1913, the Clayton Act (15

1 U.S.C. 12 et seq.), and section 5 of the Federal Trade  
2 Commission Act (15 U.S.C. 45); and

3 (2) any law enacted after the date of the enact-  
4 ment of this Act by the Congress which prohibits, or  
5 makes available to the United States or any person in  
6 any court of the United States any civil remedy with  
7 respect to, any restraint upon, or monopolization of, in-  
8 terstate or foreign trade or commerce.

9 TECHNICAL AND CONFORMING AMENDMENTS

10 SEC. 10. (a)(1) Section 1 of the Communications Act of  
11 1934 (47 U.S.C. 151) is amended—

12 (A) by striking out “communication by wire and  
13 radio” and inserting in lieu thereof “telecommunica-  
14 tions, and regulating interexchange telecommunications  
15 service,”;

16 (B) by striking out “wire and radio communication  
17 service” and inserting in lieu thereof “telecommunica-  
18 tions service”;

19 (C) by striking out “wire and radio communica-  
20 tion” the second place it appears therein and inserting  
21 in lieu thereof “telecommunications service”; and

22 (D) by striking out “wire and radio communica-  
23 tion” the last place it appears therein and inserting in  
24 lieu thereof “telecommunications service, and with re-  
25 spect to interexchange telecommunications service”.

1 (2) Section 2(a) of the Communications Act of 1934 (47  
2 U.S.C. 152(a)) is amended—

3 (A) by striking out “communication by wire or  
4 radio” and inserting in lieu thereof “telecommunica-  
5 tions service, all interexchange telecommunications  
6 service”;

7 (B) by striking out “such communication or” and  
8 inserting in lieu thereof “the provision of such telecom-  
9 munications service or in”; and

10 (C) by striking out “wire or radio communication”  
11 each place it appears therein and inserting in lieu  
12 thereof “the provision of telecommunications service”.

13 (3) Section 2(b) of the Communications Act of 1934 (47  
14 U.S.C. 152(b)) is amended—

15 (A) by striking out “section 224” and inserting in  
16 lieu thereof “sections 201, 211(a)(2), 211(a)(3),  
17 211(a)(4), 211(c), 211(d)(3), 211(d)(4), 211(e), 216,  
18 217, 219, 232, 233, 234, 235, 255, and 279,”;

19 (B) by striking out “intrastate communication  
20 service by wire or radio” and inserting in lieu thereof  
21 “intraexchange telecommunications service”;

22 (C) by striking out “interstate or foreign commu-  
23 nication” each place it appears therein and inserting in  
24 lieu thereof “interexchange telecommunications service  
25 or foreign communications”;

1           (D) by striking out “201 through 205” and insert-  
2           ing in lieu thereof “216(f), 216(g), 217, 232, 233, 234,  
3           and 235”; and

4           (E) by striking out “, both inclusive,”.

5           (4) Section 3(a) of the Communications Act of 1934 (47  
6 U.S.C. 153(a)) is amended to read as follows:

7           “(a) ‘Telecommunications’ means any transmission,  
8           emission, or reception of signs, signals, writings, images, and  
9           sound or intelligence of any nature by wire, radio, optical, or  
10          other electromagnetic systems. Such term includes radio  
11          communication or communication by radio, as defined in  
12          paragraph (b).”.

13          (5) Section 3(e) of the Communications Act of 1934 (47  
14 U.S.C. 153(e)) is amended by striking out “section 223” and  
15          inserting in lieu thereof “section 278”.

16          (6) Section 3(h) of the Communications Act of 1934 (47  
17 U.S.C. 153(h)) is amended to read as follows:

18          “(h) ‘Common carrier’ and ‘carrier’ mean any person  
19          who provides any interexchange telecommunications service,  
20          intraexchange telecommunications service, or foreign trans-  
21          mission for hire. Such term does not include the shared use of  
22          telecommunications services and facilities on a nonprofit  
23          basis. Any person engaged in the provision of television or  
24          radio broadcasting services, or the provision of cable service  
25          (as defined in section 218(e)(2)), shall not be considered to be

1 a carrier for purposes of title II of this Act, to the extent  
2 such person is so engaged in the provision of any such serv-  
3 ice, except that nothing in this paragraph shall be construed  
4 to affect any authority of any State or local government, as  
5 such authority exists on the date of the enactment of the  
6 Telecommunications Act of 1980.”.

7 (7) Section 3 of the Communications Act of 1934 (47  
8 U.S.C. 153) is amended—

9 (A) by striking out paragraph (r) and paragraph  
10 (s), and by redesignating paragraph (t) through para-  
11 graph (ff) as paragraph (r) through paragraph (dd), re-  
12 spectively; and

13 (B) by adding at the end thereof the following  
14 new paragraph:

15 “(ee) ‘Dominant carrier’, ‘interexchange telecommuni-  
16 cations service’, ‘intraexchange telecommunications service’,  
17 ‘local exchange area’, and ‘regulated carrier’ have the mean-  
18 ings given them in section 202.”.

19 (8) Section 3(r) of the Communications Act of 1934, as  
20 so redesignated in paragraph (7), is amended by striking out  
21 “intrastate” and inserting in lieu thereof “intraexchange”.

22 (9) Section 4(b) of the Communications Act of 1934 (47  
23 U.S.C. 154(b)) is amended—

24 (A) by striking out “for wire or radio communica-  
25 tion” and inserting in lieu thereof “for providing tele-

1       communications service; in the manufacture or sale of  
2       terminal equipment or terminal devices”;

3               (B) by striking out “communication by wire or  
4       radio or” each place it appears therein and inserting in  
5       lieu thereof “any business which provides telecommu-  
6       nications service,”; and

7               (C) by striking out “for communication by wire or  
8       radio” and inserting in lieu thereof “for providing tele-  
9       communications service, or to any company manufac-  
10      turing or selling terminal equipment or terminal de-  
11      vices”.

12      (10) Section 4(k)(1) of the Communications Act of 1934  
13      (47 U.S.C. 154(k)(1)) is amended by striking out “interstate  
14      and foreign wire and radio communication” and inserting in  
15      lieu thereof “interexchange telecommunications service and  
16      foreign transmissions,”.

17      (11) Section 4(o) of the Communications Act of 1934  
18      (47 U.S.C. 154(o)) is amended by striking out “radio and  
19      wire communications” and inserting in lieu thereof “telecom-  
20      munications”.

21      (12) Section 216(f) of the Communications Act of 1934,  
22      as so redesignated in section 2(c)(2)(A), is amended—

23               (A) by striking out “interstate or foreign commu-  
24      nication by wire or radio” and inserting in lieu thereof  
25      “foreign telecommunications”; and



1 (B) by striking out “communication” the last  
2 place it appears therein and inserting in lieu thereof  
3 “telecommunications”.

4 (13) Section 216(g) of the Communications Act of 1934,  
5 as so redesignated in section 2(c)(2)(B), is amended—

6 (A) by striking out “such communication service”  
7 and inserting in lieu thereof “the provision of telecom-  
8 munications service by dominant carriers and other  
9 regulated carriers”;

10 (B) by striking out “communications by wire or  
11 radio” and inserting in lieu thereof “telecommunica-  
12 tions service”; and

13 (C) by striking out “common carrier” the first,  
14 third, and last places it appears therein and inserting  
15 in lieu thereof “dominant carrier or other regulated  
16 carrier”.

17 (14) Section 217(a) of the Communications Act of 1934,  
18 as so redesignated in section 2(d)(1), is amended by striking  
19 out “common carrier” and inserting in lieu thereof “dominant  
20 carrier or other regulated carrier”, and by striking out “com-  
21 munication” and inserting in lieu thereof “telecommunica-  
22 tions”.

23 (15) Section 217(b) of the Communications Act of 1934,  
24 as so redesignated in section 2(d)(1), is amended by striking  
25 out “common carrier lines of communication” and inserting

1 in lieu thereof "facilities of a dominant carrier or other regu-  
2 lated carrier".

3 (16) Section 217(c) of the Communications Act of 1934,  
4 as so redesignated in section 2(d)(1), is amended by striking  
5 out "carrier" and inserting in lieu thereof "dominant carrier  
6 or other regulated carrier".

7 (17) Section 232(a) of the Communications Act of 1934,  
8 as so redesignated in section 3(b)(1), is amended by striking  
9 out "interstate and foreign wire or radio communication" and  
10 inserting in lieu thereof "interexchange telecommunications  
11 service, and foreign transmissions,".

12 (18) Section 232(b)(1) of the Communications Act of  
13 1934, as so redesignated in section 3(b)(1), is amended—

14 (A) by inserting "by a dominant carrier or other  
15 regulated carrier" after "published" the first place it  
16 appears therein; and

17 (B) by adding at the end thereof the following  
18 new sentence: "In the case of any other carriers, such  
19 notice shall be made at any time before any such  
20 change is made.".

21 (19) Section 232(c) of the Communications Act of 1934,  
22 as so redesignated in section 3(b)(1), is amended—

23 (A) by striking out "carrier" each place it appears  
24 therein and inserting in lieu thereof "dominant carrier  
25 or other regulated carrier";

1 (B) by striking out “engage or participate in such  
2 communication” and inserting in lieu thereof “provide  
3 interexchange telecommunications service or foreign  
4 transmissions”; and

5 (C) by striking out “such communication” each  
6 place it appears therein and inserting in lieu thereof  
7 “the provision of such service or transmissions”.

8 (20) Section 234(a) of the Communications Act of 1934,  
9 as so redesignated in section 3(b)(2), is amended—

10 (A) by striking out “carrier or carriers” the first  
11 place it appears therein and inserting in lieu thereof  
12 “dominant carrier or other regulated carrier”;

13 (B) by striking out “interested carrier or carriers”  
14 the first place it appears therein and inserting in lieu  
15 thereof “dominant carrier or other regulated carrier  
16 imposing such charge”;

17 (C) by striking out “interested carrier or carriers”  
18 the last place it appears therein and inserting in lieu  
19 thereof “dominant carrier or other regulated carrier”;  
20 and

21 (D) in the last sentence, by striking out “carrier”  
22 and inserting in lieu thereof “dominant carrier or other  
23 regulated carrier”.

24 (21) Section 234(b) of the Communications Act of 1934,  
25 as so redesignated in section 3(b)(2), is amended by striking

1 out “carrier or carriers affected” and inserting in lieu thereof  
2 “dominant carrier or other regulated carrier involved”.

3 (22) Section 235(a) of the Communications Act of 1934,  
4 as so redesignated in section 3(b)(2), is amended by striking  
5 out “carrier or carriers” each place it appears therein and  
6 inserting in lieu thereof “dominant carrier or other regulated  
7 carrier”.

8 (23) Section 235(b) of the Communications Act of 1934,  
9 as so redesignated in section 3(b)(2), is amended by striking  
10 out “carrier” each place it appears therein and inserting in  
11 lieu thereof “dominant carrier or other regulated carrier”.

12 (24) The heading for section 236 of the Communications  
13 Act of 1934, as so redesignated in section 3(b)(2), is amended  
14 by striking out “CARRIERS” and inserting in lieu thereof  
15 “DOMINANT CARRIERS AND OTHER REGULATED CARRI-  
16 ERS”.

17 (25) Section 236 of the Communications Act of 1934, as  
18 so redesignated in section 3(b)(2), is amended by striking out  
19 “common carrier” each place it appears therein and inserting  
20 in lieu thereof “dominant carrier or other regulated carrier”.

21 (26) Section 237 of the Communications Act of 1934, as  
22 so redesignated in section 3(b)(2), is amended—

23 (A) by striking out “common carrier subject to the  
24 provisions of this Act” and inserting in lieu thereof  
25 “dominant carrier or other regulated carrier”; and

1 (B) by striking out "common carrier" the last  
2 place it appears therein and inserting in lieu thereof  
3 "dominant carrier or other regulated carrier".

4 (27) Section 239 of the Communications Act of 1934, as  
5 so redesignated in section 3(b)(4), is amended—

6 (A) by striking out "common carrier subject to  
7 this Act" and inserting in lieu thereof "dominant carri-  
8 er or other regulated carrier";

9 (B) by striking out "common carrier" the second,  
10 third, and last places it appears therein and inserting in  
11 lieu thereof "dominant carrier or other regulated carri-  
12 er"; and

13 (C) by striking out "carrier or carriers" and in-  
14 serting in lieu thereof "dominant carrier or other regu-  
15 lated carrier".

16 (28) Section 240 of the Communications Act of 1934, as  
17 so redesignated in section 3(b)(4), is amended by striking out  
18 "carrier" and inserting in lieu thereof "dominant carrier or  
19 other regulated carrier involved".

20 (29) The heading for section 251 of the Communications  
21 Act of 1934, as so redesignated in section 4(b)(1), is amended  
22 to read as follows:

1 "VALUATION OF PROPERTY OF DOMINANT CARRIERS AND  
2 OTHER REGULATED CARRIERS".

3 (30) Section 251(a) of the Communications Act of 1934,  
4 as so redesignated in section 4(b)(1), is amended—

5 (A) by striking out "The" and inserting in lieu  
6 thereof "Subject to section 252(b), the"; and

7 (B) by striking out "carrier subject to this Act"  
8 and inserting in lieu thereof "dominant carrier or other  
9 regulated carrier".

10 (31) Section 251(b) of the Communications Act of 1934,  
11 as so redesignated in section 4(b)(1), is amended by striking  
12 out "carrier" each place it appears therein and inserting in  
13 lieu thereof "dominant carrier or other regulated carrier".

14 (32) Section 251(c) of the Communications Act of 1934,  
15 as so redesignated in section 4(b)(1), is amended by striking  
16 out "carrier" each place it appears therein and inserting in  
17 lieu thereof "dominant carrier or other regulated carrier".

18 (33) Section 251(d) of the Communications Act of 1934,  
19 as so redesignated in section 4(b)(1), is amended by striking  
20 out "carrier" each place it appears therein and inserting in  
21 lieu thereof "dominant carrier or other regulated carrier".

22 (34) Section 251(e) of the Communications Act of 1934,  
23 as so redesignated in section 4(b)(1), is amended by striking  
24 out "common carriers" and inserting in lieu thereof "any  
25 dominant carrier or other regulated carrier", and by striking

1 out “carrier” and inserting in lieu thereof “dominant carrier  
2 properties or other regulated carrier”.

3 (35) Section 251(f) of the Communications Act of 1934,  
4 as so redesignated in section 4(b)(1), is amended—

5 (A) by striking out “carrier” each place it appears  
6 therein and inserting in lieu thereof “dominant carrier  
7 or other regulated carrier”; and

8 (B) in the last sentence, by inserting “and consist-  
9 ent with the provisions of section 252(b)” before the  
10 period at the end thereof.

11 (36) Section 251 of the Communications Act of 1934, as  
12 so redesignated in section 4(b)(1), is amended by striking out  
13 subsection (g) thereof and by redesignating subsection (h)  
14 thereof as subsection (g).

15 (37) Section 252(a) of the Communications Act of 1934,  
16 as so redesignated in section 4(b)(2), is amended by striking  
17 out “carriers subject to this Act” and inserting in lieu thereof  
18 “any dominant carrier or other regulated carrier”.

19 (38) Section 252(c) of the Communications Act of 1934,  
20 as so redesignated in section 4(b)(2), is amended by striking  
21 out “carriers” and inserting in lieu thereof “dominant carri-  
22 ers or other regulated carriers”.

23 (39) Section 252(d) of the Communications Act of 1934,  
24 as so redesignated in section 4(b)(2), is amended by striking

1 out “carrier” each place it appears therein and inserting in  
2 lieu thereof “dominant carrier or other regulated carrier”.

3 (40) Section 252(e) of the Communications Act of 1934,  
4 as so redesignated in section 4(b)(2), is amended by striking  
5 out “carrier” each place it appears therein and inserting in  
6 lieu thereof “dominant carrier or other regulated carrier”.

7 (41) Section 252(h) of the Communications Act of 1934,  
8 as so redesignated in section 4(b)(2), is amended by striking  
9 out “classify carriers subject to this Act and”.

10 (42) Section 252(i) of the Communications Act of 1934,  
11 as so redesignated in section 4(b)(2), is amended by striking  
12 out “any carrier” and inserting in lieu thereof “the dominant  
13 carrier or other regulated carrier”.

14 (43) Section 253(a) of the Communications Act of 1934,  
15 as so redesignated in section 4(b)(3), is amended—

16 (A) by striking out “common carrier” and insert-  
17 ing in lieu thereof “dominant carrier or other regulated  
18 carrier”;

19 (B) by striking out “carrier” each place it appears  
20 therein and inserting in lieu thereof “dominant carrier  
21 or other regulated carrier”;

22 (C) by inserting “telecommunications” before  
23 “services” the second place it appears therein;

24 (D) by striking out “, in wire or radio communica-  
25 tions subject to this Act,”; and



1           (E) by inserting “telecommunications” before  
2           “service” the first place it appears therein.

3           (44) Section 253(c) of the Communications Act of 1934,  
4 as so redesignated in section 4(b)(3), is amended—

5           (A) by striking out “common carriers subject to  
6           this Act” and inserting in lieu thereof “dominant carri-  
7           ers or other regulated carriers”; and

8           (B) by striking out “another common carrier sub-  
9           ject to this Act” and inserting in lieu thereof “any  
10          other such carrier”.

11          (45) Section 271(a) of the Communications Act of 1934,  
12 as so redesignated in section 5(b)(1), is amended by striking  
13 out “common carriers” the first place it appears therein and  
14 inserting in lieu thereof “dominant carriers or other regulated  
15 carriers”, and by striking out “other” the last place it ap-  
16 pears therein.

17          (46) Section 271(b) of the Communications Act of 1934,  
18 as so redesignated in section 5(b)(1), is amended by striking  
19 out “common carriers” and inserting in lieu thereof “domi-  
20 nant carriers or other regulated carriers”.

21          (47) Section 272(a) of the Communications Act of 1934,  
22 as so redesignated in section 5(b)(1), is amended by striking  
23 out “carrier subject to this Act” and inserting in lieu thereof  
24 “dominant carrier or other regulated carrier”.

1 (48) Section 272(b) of the Communications Act of 1934,  
2 as so redesignated in section 5(b)(1), is amended by striking  
3 out “carrier” each place it appears therein and inserting in  
4 lieu thereof “dominant carrier or other regulated carrier”.

5 (49) Section 273 of the Communications Act of 1934, as  
6 so redesignated in section 5(b)(1), is amended—

7 (A) by striking out “After sixty days from the en-  
8 actment of this Act” and inserting in lieu thereof  
9 “Except as provided in section 214(c)(1)(B),”;

10 (B) by striking out “carrier subject to this Act”  
11 each place it appears therein and inserting in lieu  
12 thereof “dominant carrier or other regulated carrier”;

13 (C) by striking out “carrier” the second place it  
14 appears therein and inserting in lieu thereof “dominant  
15 carrier or other regulated carrier”; and

16 (D) by striking out “carriers” each place it ap-  
17 pears therein and inserting in lieu thereof “dominant  
18 carriers or other regulated carriers”.

19 (50) Section 276(b) of the Communications Act of 1934,  
20 as so redesignated in section 5(b)(4), is amended by striking  
21 out “interstate” and inserting in lieu thereof “interexchange  
22 telecommunications service”.

23 (51) Section 276(c) of the Communications Act of 1934,  
24 as so redesignated in section 5(b)(4), is amended—

1 (A) by striking out “interstate” and inserting in  
 2 lieu thereof “interexchange telecommunications serv-  
 3 ice”; and

4 (B) by adding at the end thereof the following  
 5 new sentence: “The Commission shall not have any  
 6 authority to carry out any functions or activities under  
 7 this subsection during the period beginning on the date  
 8 of the establishment of the transitional joint board and  
 9 ending at the end of the period specified in section  
 10 231(i).”.

11 (52) Section 276(d) of the Communications Act of 1934,  
 12 as so redesignated in section 5(b)(4), is amended by striking  
 13 out “interstate” and inserting in lieu thereof “interexchange  
 14 telecommunications service”.

15 (53) Section 277(a)(10) of the Communications Act of  
 16 1934, as so redesignated in section 5(b)(4), is amended by  
 17 striking out “, except Hawaii”.

18 (54) Section 277 of the Communications Act of 1934, as  
 19 so redesignated in section 5(b)(4), is amended by adding at  
 20 the end thereof the following new subsection:

21 “(g)(1) The authority of any carrier to provide any serv-  
 22 ice or operate any facilities which it is authorized to provide  
 23 or operate on the date of the enactment of the Telecommuni-  
 24 cations Act of 1980 shall not be altered or otherwise affected  
 25 by the inclusion of the State of Hawaii in the definition of

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1 'continental United States'. Such inclusion shall not restrict  
 2 or impair the eligibility of any carrier, after such date of en-  
 3 actment, for new or additional authority.

4       “(2) Whenever, upon complaint or upon its own initia-  
 5 tive, and after opportunity for a hearing, the Commission  
 6 finds that any charge, classification, regulation, or practice  
 7 relating to intercarrier arrangements of any carrier serving  
 8 the State of Hawaii is or will be unjust, unreasonable, dis-  
 9 criminatory, or not in the public interest, the Commission  
 10 shall determine and prescribe a charge, classification, regula-  
 11 tion, practice, or other remedy which is or will be just, rea-  
 12 sonable, nondiscriminatory, and in the public interest, and  
 13 which shall be followed after the date of such action by the  
 14 Commission.”.

15       (55) Section 278 of the Communications Act of 1934, as  
 16 so redesignated in section 5(b)(4), is amended by inserting the  
 17 following new heading at the beginning thereof:

18       “PROHIBITION OF CERTAIN TELEPHONE CALLS”.

19       (56) Section 278(1) of the Communications Act of 1934,  
 20 as so redesignated in section 5(b)(4), is amended by striking  
 21 out “in the District” and all that follows through “by means  
 22 of telephone” and inserting in lieu thereof “by means of tele-  
 23 phone in the District of Columbia, between local exchange  
 24 areas, or between a local exchange area and a point in a  
 25 foreign nation”.

1 (57) Section 279(a)(1) of the Communications Act of  
2 1934, as so redesignated in section 5(b)(4), is amended by  
3 striking out “wire communication” and inserting in lieu  
4 thereof “the provision of telecommunications service”.

5 (58) Section 303(r) of the Communications Act of 1934  
6 (47 U.S.C. 303(r)) is amended by striking out “radio or wire  
7 communications” and inserting in lieu thereof “telecommuni-  
8 cations”.

9 (59) Section 406 of the Communications Act of 1934  
10 (47 U.S.C. 406) is amended—

11 (A) by striking out “carrier subject to this Act”  
12 and inserting in lieu thereof “dominant carrier or other  
13 regulated carrier”;

14 (B) by striking out “service in interstate or for-  
15 eign communication by wire or radio” and inserting in  
16 lieu thereof “any interexchange telecommunications  
17 service or any foreign transmission”;

18 (C) by inserting “any service” before “in inter-  
19 state” the last place it appears therein; and

20 (D) by striking out “communication” the second  
21 and last places it appears therein and inserting in lieu  
22 thereof “telecommunications”.

23 (60) Section 407 of the Communications Act of 1934  
24 (47 U.S.C. 407) is amended by striking out “carrier” each

1 place it appears therein and inserting in lieu thereof “domi-  
2 nant carrier or other regulated carrier”.

3 (61) Section 410(a) of the Communications Act of 1934  
4 (47 U.S.C. 410(a)) is amended by striking out “wire or radio  
5 communication” and inserting in lieu thereof “provision of  
6 telecommunications service”.

7 (62) The first sentence of section 410(c) of the Commu-  
8 nications Act of 1934 (47 U.S.C. 410(c)) is amended—

9 (A) by striking out “The” and inserting in lieu  
10 thereof “After the termination of the transitional joint  
11 board under section 231(i), the”; and

12 (B) by striking out “interstate and intrastate oper-  
13 ations” and inserting in lieu thereof “interexchange  
14 telecommunications service and intraexchange telecom-  
15 munications service”.

16 (63) Section 412 of the Communications Act of 1934  
17 (47 U.S.C. 412) is amended—

18 (A) by striking out “common carriers” and insert-  
19 ing in lieu thereof “dominant carriers and other regu-  
20 lated carriers”;

21 (B) by striking out “carriers” the last place it ap-  
22 pears therein and inserting in lieu thereof “dominant  
23 carriers, other regulated carriers,”; and

1 (C) by striking out “foreign wire or radio commu-  
2 nication” and inserting in lieu thereof “foreign trans-  
3 missions”.

4 (64) Section 413 of the Communications Act of 1934  
5 (47 U.S.C. 413) is amended by striking out “carrier” each  
6 place it appears therein and inserting in lieu thereof “domi-  
7 nant carrier or other regulated carrier”, and by striking out  
8 “subject to this Act”.

9 (65) Section 415(a) of the Communications Act of 1934  
10 (47 U.S.C. 415(a)) is amended by striking out “carriers” and  
11 inserting in lieu thereof “dominant carriers or other regulated  
12 carriers”.

13 (66) Section 415(b) of the Communications Act of 1934  
14 (47 U.S.C. 415(b)) is amended by striking out “carriers” and  
15 inserting in lieu thereof “dominant carriers or other regulated  
16 carriers”.

17 (67) Section 415(c) of the Communications Act of 1934  
18 (47 U.S.C. 415(c)) is amended—

19 (A) by striking out “carriers” and inserting in lieu  
20 thereof “dominant carriers or other regulated carriers”;  
21 and

22 (B) by striking out “carrier” and inserting in lieu  
23 thereof “dominant carrier or other regulated carrier”.

24 (68) Section 415(d) of the Communications Act of 1934  
25 (47 U.S.C. 415(d)) is amended by striking out “carrier” each

1 place it appears therein and inserting in lieu thereof “domi-  
2 nant carrier or other regulated carrier”.

3 (69) Section 415(e) of the Communications Act of 1934  
4 (47 U.S.C. 415(e)) is amended by striking out “carrier” and  
5 inserting in lieu thereof “dominant carrier or other regulated  
6 carrier”.

7 (70) Section 416(a) of the Communications Act of 1934  
8 (47 U.S.C. 416(a)) is amended by striking out “carrier” and  
9 inserting in lieu thereof “dominant carrier or other regulated  
10 carrier involved”.

11 (71) Section 502 of the Communications Act of 1934  
12 (47 U.S.C. 502) is amended by striking out “radio or wire  
13 communications” and inserting in lieu thereof “telecommuni-  
14 cations”.

15 (72) Section 503(a) of the Communications Act of 1934  
16 (47 U.S.C. 503(a)) is amended—

17 (A) by striking out “interstate or” the first place  
18 it appears therein and inserting in lieu thereof “trans-  
19 mission between local exchange areas or for”;

20 (B) by striking out “carrier” the first and second  
21 places it appears therein and inserting in lieu thereof  
22 “dominant carrier or other regulated carrier”;

23 (C) by striking out “interstate or foreign wire or  
24 radio” and inserting in lieu thereof “interexchange  
25 telecommunications or foreign”; and



1 (D) by striking out “common carrier” and insert-  
2 ing in lieu thereof “dominant carrier or other regulated  
3 carrier”.

4 (73) Section 605 of the Communications Act of 1934  
5 (47 U.S.C. 605) is amended—

6 (A) by striking out “interstate or foreign commu-  
7 nication by wire or radio” and inserting in lieu thereof  
8 “telecommunications between local exchange areas, or  
9 between a local exchange area and any point in a for-  
10 eign nation,”; and

11 (B) by striking out “communication” the second  
12 and third places it appears therein and inserting in lieu  
13 thereof “telecommunication”.

14 (74) Section 606(b) of the Communications Act of 1934  
15 (47 U.S.C. 606(b)) is amended—

16 (A) by striking out “interstate or foreign commu-  
17 nication by radio or wire” and inserting in lieu thereof  
18 “telecommunications between local exchange areas, or  
19 between a local exchange area and any point in a for-  
20 eign nation”; and

21 (B) by striking out “communication” the last  
22 place it appears therein and inserting in lieu thereof  
23 “telecommunications”.

24 (75) Section 606(d)(2) of the Communications Act of  
25 1934 (47 U.S.C. 606(d)(2)) is amended by inserting “tele-

1 communications” before “facility”, and by striking out “for  
2 wire communication”.

3 (b)(1) Clause (iii) of section 46(c)(3)(B) of the Internal  
4 Revenue Code of 1954 (relating to public utility property) is  
5 amended by striking out “section 222(a)(5)” and inserting in  
6 lieu thereof “section 277(a)(5)”, and by striking out “; 47  
7 U.S.C. 222(a)(5)”.

8 (2) Section 201(c)(3) of the Communications Satellite  
9 Act of 1962 (47 U.S.C. 721(c)(3)) is amended by striking out  
10 “section 214(d)” and inserting in lieu thereof “section  
11 215(e)”.

12 (3) Section 201(c)(10) of the Communications Satellite  
13 Act of 1962 (47 U.S.C. 721(c)(10)) is amended by striking  
14 out “section 214” and inserting in lieu thereof “section  
15 215”.

16 EFFECTIVE DATES; TRANSITIONAL PROVISIONS

17 SEC. 11. (a) Except as provided in subsection (b) and  
18 subsection (c), the foregoing provisions of this Act, and the  
19 amendments made by this Act, shall take effect—

20 (1) on the date the transitional joint board is es-  
21 tablished under section 231(a) of the Communications  
22 Act of 1934, as added by section 3(a); or

23 (2) 90 days after the date of the enactment of this  
24 Act;

25 whichever occurs first.

1 (b) Section 212(a)(5), section 216(b)(2)(B), section  
2 216(c)(3)(B), section 231(a), section 231(c), section 233(b)(4),  
3 section 254, and section 281(e) of the Communications Act of  
4 1934, as added by the foregoing provisions of this Act, shall  
5 take effect on the date of the enactment of this Act.

6 (c)(1) With respect to terminal equipment and terminal  
7 devices furnished by a dominant carrier and of a type in use  
8 on the date of the enactment of this Act, the last sentence of  
9 section 202(17), section 211(a)(6), and section 211(d)(1)(A) of  
10 the Communications Act of 1934, as added by the foregoing  
11 provisions of this Act, shall take effect in accordance with  
12 subsection (a).

13 (2) With respect to terminal equipment and terminal de-  
14 vices furnished by any carrier other than a dominant carrier  
15 and in use on the date of the enactment of this Act, the  
16 provisions specified in paragraph (1) shall take effect—

17 (A) on the effective date of regulations prescribed  
18 by the transitional joint board for the purpose of carry-  
19 ing out section 231(a)(3) of the Communications Act of  
20 1934, as added by section 3(a); or

21 (B) 1 year after the date of the enactment of this  
22 Act;

23 whichever occurs first.

24 (3) With respect to terminal equipment and terminal de-  
25 vices offered for sale after the date of the enactment of this

1 Act, the provisions specified in paragraph (1) (other than sec-  
2 tion 231(a)(3) of the Communications Act of 1934) shall take  
3 effect in accordance with subsection (a).

○

Chairman RODINO. The gentleman from New Jersey.

Mr. HUGHES. I ask unanimous consent that the committee meeting this afternoon be covered in whole or in part by radio broadcast, TV broadcast, or still photography, pursuant to rule 5 of the committee rules.

Mr. RODINO. Without objection, so ordered.

I now will ask the ranking minority member, Mr. McClory, if he would like to make some opening remarks.

Mr. McCLORY. Thank you, Mr. Chairman.

First of all, I would like to commend you for requesting and securing sequential referral of this bill, H.R. 6121, a request which I supported.

For some time, as you know, I have been advocating that our committee broaden its vision to include legislation of other committees significantly impacting areas within our jurisdiction. H.R. 6121 is clearly such a bill.

Over the years it has become evident that we have different approaches to sequential referrals, you and I. You have tended to seek referral in order to effectuate substantive changes which you virtually support. Whereas I have sought referral in order to vindicate our jurisdiction.

Thus, I wish to make it clear that I applaud referral on this procedural basis alone. I have not sought referral to oppose or stall this legislation or to propose specific amendments.

Rather, I have sought referral so that we might all decide how to resolve the serious antitrust questions which are clearly presented.

Our goal is the encouragement of competition and the protection of the public interest. In my opinion, the public would best be served if A.T. & T. were permitted to enter new areas of telecommunications, provided, however, that it would be done under terms and conditions that would not grant A.T. & T. a competitive advantage over its present rivals or over its potential competitors.

A.T. & T. has demonstrated the highest qualities of innovation in management. It has produced the largest, the most reliable, and the best communications system in the world. Their technology and professional service must not be lost. Yet their economic power must not be expanded to the unlawful prejudice of any legitimate competitors.

We are confronted with a very complex problem. We cannot simply deregulate. A.T. & T. holds what some have termed a natural monopoly in providing local telephone service to most of the country.

If A.T. & T. were forever subjected to regulation of both its service and manufacturing functions, that would not, in itself, solve the problem of how those functions should be separated to safeguard the public interest.

What the bill before us provides is some regulation and some deregulation.

We cannot be satisfied with a solution that looks good on paper, but only with one that will work. We have to have one that will work in practice.

I will be giving close attention to the testimony to determine whether the terms and conditions of A.T. & T.'s prospective entry

are fair and just and in the best interests of the telecommunications industry and the interests of the American people.

It is my hope that we can resolve this matter promptly and move forward on this important legislation.

I am pleased that our hearings are going to be kicked off by two of the real experts in the Congress who have considered this, the chairman of the Interstate and Foreign Commerce Subcommittee and the ranking member of the Interstate and Foreign Commerce Committee, who have developed this legislation which we are now reviewing under sequential referral.

Thank you, Mr. Chairman.

Chairman RODINO. The committee will proceed, in accordance with established rules of the Committee on the Judiciary.

We will hear from the witnesses. And then each of the members will be allotted 5 minutes for questions.

I would hope that the witnesses who are going to testify this afternoon, in view of the time element that we have, will try to reduce their oral testimony to summary. We will be appreciative of that.

We would ask that written statements be inserted in the record in their entirety, without objection.

Mr. BROOKS. Mr. Chairman.

Chairman RODINO. The gentleman from Texas.

Mr. BROOKS. I ask unanimous consent to proceed for 1 minute.

Chairman RODINO. So ordered.

Mr. BROOKS. H.R. 6121 is an attempt to bring national communications policy in line with the rapid changes in technology that have taken place in the last 10 years. And while I applaud Congressman Van Deerlin for his dedicated effort, and Mr. Broyhill as well, I am concerned that the bill deals with a narrow issue, of deregulating A.T. & T., and fails to address the major telecommunication issues facing the nation today.

The telecommunications industry is very complex and dynamic. There are several long-standing policy questions which impact not only this industry but other industries and citizens, questions which should be discussed before action is taken on this bill or any bill containing a proposed solution to these problems.

For example, one, telecommunications and computer technology have converged into a single technology. Yet present government policy deals primarily with telecommunications services.

And, two, many of the suppliers of telecommunications services do not occupy a monopoly supplier position and yet they are still subjected to some form of Government regulation.

And, three, issues such as privacy, and confidentiality of information contained in computer networks, transborder data flow, electronic mail and electronic funds transfer have not yet been resolved by the Government.

So while I share my distinguished colleague, Chairman Rodino's concern that the deregulation of A.T. & T. may undermine competition and innovation in the marketplace, I urge the members to keep in mind the question of whether, in fact, H.R. 6121 represents a realistic view, a remedy to the types of problems I have cited.

The critical question is: Does H.R. 6121 go to the heart of the underlying problems, or does it merely create the appearance of

progress without creating any substantial change to eliminate the confusion and the conflicts that exist in this critical area?

I hope that we can satisfactorily explore these questions before voting this bill out of subcommittee if and when we do.

Mr. SEIBERLING. I would like to have a point of personal privilege. I would like to say that I must leave for a short time to go to a meeting of the Democratic Steering and Policy Committee on some rather urgent matters. I just want our colleagues who are with us here today to understand that that is not due to any lack of interest in and concern for their testimony.

I think this is one of the most important issues that this Congress, and perhaps any Congress, can deal with. I intend to be back at the earliest possible moment.

Thank you.

Chairman RODINO. Thank you.

Our first witnesses this afternoon are two distinguished fellow members who have made very substantial contributions to the development of this legislation. The Honorable Lionel Van Deerlin from California is the chairman of the Subcommittee on Communications, and has been instrumental in shaping this legislation from the very outset. With him is the ranking minority member of the Commerce Committee, Representative James T. Broyhill from North Carolina, who has likewise been a key player in developing this legislation.

I would like to welcome both of you on behalf of the subcommittee. Your full written statements will of course be made a part of the record. We would look forward to any oral statements you might have at this time.

Thank you.

You may proceed.

[The complete statements follow:]

## STATEMENT OF HON. LIONEL VAN DEERLIN

MR. CHAIRMAN, I WANT TO THANK YOU FOR THE OPPORTUNITY TO APPEAR HERE TODAY WITH MY COLLEAGUE FROM NORTH CAROLINA, MR. BROYHILL, THE RANKING MINORITY MEMBER OF THE COMMERCE COMMITTEE. AS YOU KNOW, MR. BROYHILL AND I ARE AMONG THE SPONSORS OF H.R. 6121, THE TELECOMMUNICATIONS ACT OF 1980.

LET ME SAY AT THE OUTSET HOW MUCH I APPRECIATE ALL YOU HAVE DONE, MR. CHAIRMAN, TO KEEP US INFORMED OF YOUR CONCERNS ABOUT THE LEGISLATION. IN FACT, BY WORKING TOGETHER, WE HAVE BEEN ABLE TO IMPROVE PORTIONS OF THE BILL, PARTICULARLY THE WORDING OF SECTION 9 WHICH EXPRESSES THE DESIRE OF THE CONGRESS TO REMAIN NEUTRAL ON THE PENDING ANTITRUST SUITS INVOLVING AT&T.

AND WHILE I OPPOSED YOUR REQUEST FOR REFERRAL, I AM CONFIDENT THAT THIS SUBCOMMITTEE AND THE JUDICIARY COMMITTEE AS A WHOLE WILL RECOGNIZE THE IMPORTANCE OF THIS LEGISLATION AND NOT DELAY ITS CONSIDERATION BY ALL OF OUR COLLEAGUES IN THE HOUSE.

YOU ARE THE EXPERTS IN ANTITRUST MATTERS, AND WE ARE NOT HERE TO DISPUTE YOUR CONCERNS IN THAT AREA. HOWEVER, THE COMMERCE COMMITTEE HAS JURISDICTION OVER COMMUNICATIONS POLICY -- PARTICULARLY THE COMMUNICATIONS ACT OF 1934 -- AND WE EXPECT YOU WILL BEAR THAT IN MIND WHEN YOU MAKE RECOMMENDATIONS REGARDING THE DISPOSITION OF THIS BILL.



H.R. 6121 WAS REPORTED BY THE COMMERCE COMMITTEE ON JULY 31 BY A VOTE OF 34-7. THE BILL HAS BROAD BIPARTISAN SUPPORT AS MY PRESENCE HERE TODAY WITH MR. BROYHILL INDICATES. EVEN MORE IMPORTANT, THIS BILL IS THE PRODUCT OF A FIVE-YEAR BIPARTISAN EFFORT OF THE COMMUNICATIONS SUBCOMMITTEE TO REVAMP THE COMMUNICATIONS ACT -- A LAW PASSED IN 1934 BUT WHICH HAS ITS ANTECEDENTS IN STATUTES WRITTEN ALMOST A CENTURY AGO TO REGULATE THE RAILROADS.

THE PROVISIONS OF THIS BILL HAVE BEEN CRAFTED CAREFULLY AND THEY HAVE BEEN SUBJECTED TO EXTENSIVE HEARINGS AND PUBLIC DISCUSSIONS.

THE EFFORT ACTUALLY PREDATES MY TENURE AS CHAIRMAN OF THE COMMUNICATIONS SUBCOMMITTEE. IN 1975, THE SUBCOMMITTEE RELEASED THE FINDINGS OF A GAO STUDY WHICH RECOMMENDED A NUMBER OF CHANGES IN THE REGULATION OF COMMUNICATIONS COMMON CARRIERS. THE GAO REPORT CALLED ON CONGRESS TO "CLARIFY THE POLICY OBJECTIVES OF COMMON CARRIER REGULATION" AND TO "DEREGULATE MARKETS WHERE COMPETITION APPEARS FEASIBLE AND BENEFICIAL TO THE PUBLIC."

THE SUBCOMMITTEE MOVED QUICKLY TO STREAMLINE THE FCC'S TARIFF AUTHORITY AND REFORMS WERE SIGNED INTO LAW IN AUGUST, 1976. IN THE MEANTIME, THE SUBCOMMITTEE MEMBERS INSTRUCTED THE STAFF TO BEGIN TO DEVELOP AN AGENDA FOR OVERSIGHT TO CARRY OUT SOME OF THE GAO RECOMMENDATIONS. THE STAFF STUDY WAS ISSUED IN APRIL, 1976. IT WAS CRITICAL OF THE FCC, AS WAS THE COURT OF APPEALS, FOR FAILING TO MOVE QUICKLY ENOUGH TO IMPLEMENT ITS PRO-COMPETITIVE DECISIONS.

BUT A FUNNY THING HAPPENED ON OUR WAY TO AMENDING THE COMMUNICATIONS ACT. A COALITION LED BY AT&T AND THE COMMUNICATIONS WORKERS OF AMERICA SUCCESSFULLY URGED THE INTRODUCTION OF LEGISLATION WHICH WOULD HAVE TURNED BACK THE CLOCK AND REPUDIATED THE DECISIONS OF THE FCC AND THE COURTS IN FAVOR OF PRESERVING THE END-TO-END MONOPOLY OF THE TELEPHONE INDUSTRY. THE BILL WAS GIVEN AN ESPECIALLY BEGUILING TITLE -- THE CONSUMER COMMUNICATIONS REFORM ACT OF 1976. AT ONE POINT, NEARLY TWO HUNDRED MEMBERS OF CONGRESS, INCLUDING NINE OF THE THIRTY-ONE CURRENT MEMBERS OF THE JUDICIARY COMMITTEE, PUT THEIR NAMES ON THIS BILL.

MR. BROYHILL AND I STRONGLY OPPOSED THAT LEGISLATION, YET ONLY TWENTY-THREE MEMBERS OF CONGRESS WERE WILLING TO SUPPORT A RESOLUTION IN SUPPORT OF COMPETITION. DESPITE ITS FUNDAMENTAL FLAWS, WE RECOGNIZED THAT THE "BELL BILL" HAD ONE REDEEMING VIRTUE -- A CHALLENGE TO THE CONGRESS TO REEXAMINE COMMUNICATIONS POLICY -- A CHALLENGE, I MIGHT ADD, WHICH THE COMMUNICATIONS SUBCOMMITTEE ALREADY WAS PREPARED TO MEET.

WE HELD EXTENSIVE HEARINGS IN THE FALL OF 1976 ON COMPETITION IN THE TELECOMMUNICATIONS INDUSTRY. THOSE HEARINGS WERE FOLLOWED BY A BIPARTISAN EFFORT TO DEVELOP OUR OWN BILL TO DEAL WITH THE PROBLEMS WHICH WE HAD UNCOVERED.

IN MAY, 1977, WE RELEASED A COMPREHENSIVE SET OF OPTIONS PAPERS PREPARED BY THE STAFF. THIS WAS FOLLOWED BY AN UNPRECEDENTED SERIES OF PUBLIC ROUNDTABLE DISCUSSIONS INVOLVING

INDUSTRY LEADERS, GOVERNMENT REGULATORS, PUBLIC INTEREST GROUPS, AND OTHER EXPERTS. THE ROUNDTABLE DISCUSSIONS TOOK PLACE OVER A SIX-MONTH PERIOD. IN JUNE, 1978, WE INTRODUCED H.R. 13015 -- THE RESULT OF OUR STUDIES AND DISCUSSIONS. H.R. 13015 WAS THE FIRST COMPREHENSIVE EFFORT TO REWRITE THE COMMUNICATIONS ACT. AS SUCH, IT DEALT WITH BROADCASTING AND CABLE AS WELL AS WITH COMMON CARRIER MATTERS.

H.R. 13015 CALLED FOR THE DIVESTITURE OF WESTERN ELECTRIC -- A PROVISION WHICH, I MIGHT ADD, DREW LITTLE SUPPORT ON THE SUBCOMMITTEE. THERE WERE SEVERAL MONTHS OF HEARINGS, INCLUDING FIELD HEARINGS IN FIVE CITIES. TIME RAN OUT IN THE 95TH CONGRESS BEFORE FURTHER ACTION COULD BE TAKEN.

IN MARCH, 1979, WE INTRODUCED A NEW COMPREHENSIVE BILL, H.R. 3333. AGAIN, EXHAUSTIVE HEARINGS WERE HELD -- A TOTAL OF 89 WITNESSES TESTIFIED ON THE COMMON CARRIER PROVISIONS ALONE. HOWEVER, IT BECAME CLEAR THAT MOST MEMBERS OF THE SUBCOMMITTEE FELT THAT THE BROADCASTING AND CABLE PROVISIONS OF THE BILL WOULD DELAY ITS ENACTMENT, AND WE DECIDED TO BREAK OFF THE COMMON CARRIER PORTION OF THE BILL AND PROCEED WITH IT AS A SEPARATE BILL. FURTHER REFINEMENTS WERE MADE AS A RESULT OF THE ADMINISTRATION'S EFFORTS TO DEVELOP THE SO-CALLED NTIA "PRIMER," AND AFTER SEVERAL DAYS OF PUBLIC BRIEFINGS, WHICH INCLUDED A NUMBER OF ADMINISTRATION AND FCC OFFICIALS. H.R. 6121 WAS INTRODUCED IN DECEMBER, 1979. IT WAS COSPONSORED BY EVERY MEMBER OF THE SUBCOMMITTEE.

WE HAD ALREADY BECOME KNOWN AS THE SUBCOMMITTEE THAT KEEPS DOING IT UNTIL WE GET IT RIGHT, SO WE HELD NOT ONE -- BUT TWO MARKUPS IN JANUARY AND JUNE TO PERFECT THE BILL. WE WERE ESPECIALLY CONCERNED ABOUT THOSE PROVISIONS RELATING TO SAFEGUARDS FOR COMPETITION AND TO THE ANTITRUST SAVINGS CLAUSE. THE SUBCOMMITTEE REPORTED THE BILL BY A VOTE OF 10-2, WHICH SET THE STAGE FOR THE FULL COMMITTEE APPROVAL IN JULY.

MR. CHAIRMAN, I HAVE GONE INTO DETAIL ON THE BACKGROUND OF THIS LEGISLATIVE EFFORT IN ORDER TO MAKE ONE SIMPLE POINT -- THE LEGISLATION BEFORE YOU TODAY, H.R. 6121, IS THE PRODUCT OF A MAJOR COMMITMENT OF TIME AND EFFORT ON THE PART OF THE COMMERCE COMMITTEE. IT REPRESENTS A WELL-CONCEIVED AND THOROUGHLY CONSIDERED APPROACH TO UPDATING THE COMMUNICATIONS ACT IN KEEPING WITH THE COMPETITIVE ENVIRONMENT OF TODAY AND THE EXPANDING TECHNOLOGY OF TOMORROW. MR. CHAIRMAN, IT IS AN EFFORT WHICH YOU YOURSELF HAVE CALLED "LONG OVERDUE."

THE BENEFITS OF COMPETITION AND GRADUAL DEREGULATION AS MARKETPLACE FORCES PERMIT ARE SUBSTANTIAL. BUT TIME IS RUNNING OUT FOR THIS CONGRESS. WHETHER OR NOT WE CAN COMPLETE THE COURSE IN THIS SESSION, THE ACTION WHICH THIS SUBCOMMITTEE -- AND EVENTUALLY THE FULL JUDICIARY COMMITTEE -- TAKE WILL BE CRITICAL TO THE FUTURE.

WHEN YOUR REVIEW OF THIS BILL HAS BEEN COMPLETED, I TRUST THAT YOU WILL AGREE WITH THE OVERWHELMING MAJORITY OF MEMBERS OF THE COMMERCE COMMITTEE THAT H.R. 6121 IS A SOUND PIECE OF REGULATORY REFORM LEGISLATION WHICH DESERVES ENACTMENT.

NINETY-SIXTH CONGRESS

MICHEL VAN DEERLIN, CALIF., CHAIRMAN

JOHN M. MCHEENE, N.Y.  
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Congress of the United States  
House of Representatives  
Subcommittee on Communications  
of the  
Committee on Interstate and Foreign Commerce  
Washington, D.C. 20515

September 2, 1980

The Honorable Edmund G. Brown, Jr.  
Governor  
State Capitol  
Sacramento, California 95814

Dear Governor Brown:

I take the liberty of writing to you directly to let you know the outrage I feel concerning a letter I received last week from John Bryson, president of the California Public Utilities Commission. Much to my surprise, his letter, dated August 27, was distributed the same day to members of the California Congressional delegation and was the subject of a press conference August 28 in San Francisco.

Mr. Bryson's letter raises five specific objections to H.R. 6121 -- a bill to restructure telecommunications regulation in this country -- a bill with which I have been deeply involved. Additionally, Mr. Bryson raises general concerns about the legislation's impact on consumers.

Every one of his specific criticisms is essentially wrong! This is especially troubling to me because we have worked more closely with the staff of the California PUC than with any other state regulatory body. In fact, the legislation was modified in several respects to meet some of the concerns expressed by the PUC staff.

Mr. Bryson made five points in his letter. Let me restate them quickly and lay out the facts.

Bryson's letter: H.R. 6121 would freeze the allocation of local costs to toll at the June 1980 level in a fashion which does not allow for growth in toll usage and inflation.

Wrong. The legislation specifically provides for adjustments for both traffic growth and inflation. (Sec. 231(e)(5)).

Bryson's letter: H.R. 6121 would phase out directory advertising revenue resulting in a \$1.00 increase in monthly rates for consumers.

Wrong. H.R. 6121 is intended to separate the competitive activities of regulated carriers from their monopoly activities. But in the special case of directory advertising this separation is conditioned on maintaining reasonable and affordable rates for telephone service.

H.R. 6121 would phase out directory advertising revenues from consideration as part of the telephone companies regulated business activities. But the FCC's decision in Computer Inquiry II, together with the growth of electronic or "enhanced" directory services will have the same long run effect. H.R. 6121 is not to blame for the change.

Bryson's letter: H.R. 6121 would eliminate regulatory controls over depreciation rates.

Wrong. Whoever wrote this sentence just didn't read the bill. Section 252 sets forth the mechanism for regulating depreciation rates.

Bryson's letter: H.R. 6121 deregulates telephone terminal equipment in a fashion which is burdensome to the rate payer.

Wrong. I challenge Mr. Bryson to find a less burdensome method than that in H.R. 6121. He should take particular note of Account 3 in the National Telecommunications Pool which is designed to reduce the burden he mentions. I might note that he speaks approvingly of terminal equipment deregulation; I might point out that the FCC already has ordered that it occur. Thus, we can expect terminal equipment deregulation with or without H.R. 6121. The question is how such deregulation

will affect the ratepayer and how we can assure that competition will be fair. H.R. 6121 protects the ratepayer and provides for fair competition. How would Mr. Bryson propose to handle the inevitable transition?

Bryson's letter: H.R. 6121 would cause a \$400 million increase in toll rates for California telephone customers.

Wrong. Mr. Bryson compares cabbages and kumquats -- i.e., today's intrastate telephone rates with today's interstate telephone rates. He does not compare today's rates with the new rates which would be filed in response to the changed jurisdictional lines. His figure of \$400 million -- however it is derived -- fails to take into account the fact that overall long distance rates can be reduced under H.R. 6121.

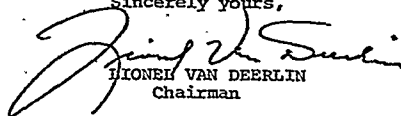
All in all, Mr. Bryson's points are either severely flawed or completely incorrect. We have worked hard to craft a reasonable mechanism for the coming transition in telecommunications which will be created by the new technology. We have worked hard to keep in touch with the staff of the PUC and have adopted their suggestions in many cases.

We are in an era of revolution in the technology which underlies telecommunications. Yet, the California PUC is playing the role of the nineteenth century Luddites in this revolution.

I should not be surprised at hearing this from Mr. Bryson were he speaking for any state but California. Our state has done more than any other to create the new technologies which drive that revolution. We are at the forefront of the new telecommunications and information age. Yet the PUC seems to be clinging to the same old regulatory shibboleths. The consumers and taxpayers of California are not getting their money's worth.

Enclosed is a copy of Mr. Bryson's letter to me and a copy of the Committee Report on H.R. 6121. I hope your office will intervene directly in this matter in order to set the record straight. Don't hesitate to contact me or my staff if you have any questions. And, inasmuch as Mr. Bryson ignores the proprieties, I intend making this letter public immediately.

Sincerely yours,



HIONEH VAN DEERLIN  
Chairman

LVD/ka

Enclosures

cc: California Congressional delegation

## STATEMENT OF HON. JAMES T. BROYHILL

H.R. 6121 - The Telecommunications Act of 1980

Mr. Chairman, and members of the Subcommittee, I certainly appreciate the opportunity to appear before you concerning the Telecommunications Act of 1980. I fully concur with Chairman Van Deerlin's statement as to the need for this legislation.

I would, with your indulgence, like to complement Chairman Van Deerlin's discussion of the history of this legislation with a brief history of the AT&T structural provisions which are contained in this legislation and which are central to the legislation's creation of a truly competitive environment in the telecommunications industry.

The first constant goal of the Subcommittee on Communications and the Commerce Committee has been to provide structural and/or behavioral safeguards to insure that competition will flourish in a telecommunications market where all are included and none are excluded.

The second and no less important goal has been to bring certainty and stability to an industry where the courts and the Federal Communications Commission have been changing the rules as the game goes along.

We have worked very long and hard to develop the structural and behavioral provisions contained in H.R. 6121. As you will see from the balance of my statement, this has been an evolutionary process, but it is one that has demonstrated broad based support amongst members of the Commerce Committee.



H.R. 13015 - Required Divestiture of Western Electric (A Structural Approach)

The Subcommittee on Communications' first legislative effort to deal with the question of Bell System structure appeared in H.R. 13015 which was introduced on June 7, 1978, by Chairman Van Deerlin and our former colleague Lou Frey, who was the Ranking Republican on the Subcommittee at the time.

H.R. 13015 was the initial effort to rewrite the totality of the nation's communications laws. I am attaching, for your consideration and review, the domestic common carrier provisions of that legislation as Exhibit #1. The relevant provision on the question of structure is Section 333, which required that after a three-year period AT&T would have been required to divest its manufacturing arm -- Western Electric.

Extensive hearings were held on the common carrier provisions of H.R. 13015 in Boston, Denver, New Orleans, Baltimore and Washington in July and August of 1978.

The introduction of and legislative hearings on H.R. 13015 were obviously late in the 95th Congress. The purpose of this action was to gauge reaction to the proposals contained in the legislation so that new legislation could be prepared for introduction early in the 96th Congress with a definite eye towards passage then.

H.R. 3333 - Required Arms Length Dealings (A Behavioral Approach)

Section 333, requiring divestiture of Western Electric, did not receive broad support within the Subcommittee on Communications.

Consequently when H.R. 13015 was redrafted for introduction in the 96th Congress that provision was eliminated. In its place, the authors chose to approach the problem in a different fashion. The decision was not to require a structural solution, but to deal with the matters of cross-subsidy and potential for unfair competitive advantage arising from the structure of the Bell System by the imposition of behavioral requirements. Thus, in H.R. 3333, the successor to H.R. 13015, you will find in Section 331(c) the requirement that affiliated organizations of a dominant carrier were required to deal with the dominant carrier and every other affiliated organization in the same manner as the affiliated organization would deal with non-affiliates. These were the so-called arms length provisions of H.R. 3333 (a copy of the common carrier provisions of H.R. 3333 is attached as Exhibit #2).

H.R. 3333 was introduced on March 29, 1979, by Chairman Van Deerlin, Mr. Collins (the Subcommittee's Ranking Republican), and myself. In April and May of 1979, eight days of hearings were held on the common carrier provisions of this legislation -- receiving testimony from 89 witnesses. During the course of these hearings it became increasingly apparent to Chairman Van Deerlin that the shift from a structure only approach to a behavioral only approach was inadequate. The dominant theme in the testimony received was that AT&T should be required to establish a separate subsidiary in order to engage in unregulated activities. This led to what has become known as the "Van Deerlin Structure Memo" dated July 10, 1979, which was sent to the members of the Subcommittee on Communications. (See Exhibit #3)

Van Deerlin Structural Proposal of July 10, 1979 (A Combination of Structural and Behavioral Requirements)

What the Van Deerlin Structure Memo did was call for a combination of structural, behavioral and accounting safeguards. It provided for a separate subsidiary to market unregulated services and products; an accounting division within Western Electric for regulated and unregulated products; and provisions relating to the manner in which the subsidiary would deal with other entities of the Bell System.

The Van Deerlin Structure Memorandum's provisions were going to be reduced to legislative language and offered as an amendment to H.R. 3333 during the Subcommittee markup scheduled to begin on July 11, 1979. After one day of markup, followed by an Executive Session meeting of the members of the Subcommittee, Chairman Van Deerlin decided to forego any further efforts to totally rewrite the 1934 Communications Act as was proposed in H.R. 13015 and H.R. 3333, and instead redraft the domestic common carrier provisions of H.R. 3333 in the form of amendments to the 1934 Act. This course of action appeared to be the clear desire of the members of the Subcommittee on Communications.

NTIA Primer - Adopts Van Deerlin Structural Approach

During the course of redrafting of the Domestic Common Carrier provisions of H.R. 3333 into a separate bill, Assistant Secretary of Commerce Henry Geller and his staff at the National Telecommunications and Information Administration began work on their "Primer". What the

Primer came to be was a discussion of the various issues (e.g. access charges, AT&T structure) followed by proposed legislative language embodying NTIA's proposed legislative course of action.

The NTIA "Primer" went through the administration clearance process with such agencies as the Departments of Justice, Agriculture and Defense interposing no objections to its final draft which was submitted to the Congress in November of 1979. The "Primer" embraced the common carrier provisions of H.R. 3333 and the Van Deerlin structure proposal calling for a marketing subsidiary for unregulated products and services.

On November 1, 7, and 8, the Subcommittee on Communications held Public Briefing Seminars on the NTIA Primer as well as the general subject of domestic common carrier regulation. At these seminars we received testimony from Alfred Kahn, Chairman of the Council on Wage and Price Stability and who was also former Chairman of the New York Public Service Commission, Henry Geller, Phillip Vermeer, Chief of the Common Carrier Bureau at the FCC, and Walter R. Hinchman former Chief of the Common Carrier Bureau at the FCC as well as a consultant to the Department of Justice in the case of U.S. v AT&T.

H.R. 6121 - Original Version (Adopts Van Deerlin/NTIA Structural Approach)

After these seminars it was decided that the NTIA "Primer" should be the primary starting point for the redrafting of the domestic common carrier legislation. The bill was drafted by a bi-partisan working group to which all members of the Subcommittee and their staffs

were encouraged to participate. Virtually all did. This effort led to the introduction of H.R. 6121 on December 13, 1979. This version of H.R. 6121 closely resembled the NTIA "Primer" in most material respects including the adoption of the marketing separate subsidiary requirement as originally proposed by Chairman Van Deerlin.

After H.R. 6121's introduction, we received numerous responses from interested parties, both written and oral, and the Subcommittee staff met personally with many interested parties at meetings arranged by them to explain the provisions of the bill as well as to hear their comments.

The Subcommittee on Communications then held markup on H.R. 6121 on January 23, 24, and 29 of 1980, at which time the Subcommittee reported the bill by a voice vote. During the course of these mark-up sessions an issue arose which proved to require a painstaking reappraisal of the structural and behavioral provisions of H.R. 6121.

The issue is what has been called "information flows" within the Bell System. This matter concerned the transfer of information in the Bell System from entities engaged in regulated activities to those engaged in unregulated activities. The question was did the behavioral and structural provisions of H.R. 6121, designed to deal with financial cross-subsidies, also prevent unfair competitive advantage flowing to the separate subsidiary and its support elements from such things as advance information with respect to changes in the regulated network.

During the markup, the members decided that language should be specifically drafted to deal with this issue and offered as an amendment in the Full Committee. At that time it was believed by all to be a fairly simple undertaking -- that proved not to be the case.

The members and staff of the Communications Subcommittee labored throughout the month of February to craft legislative language. The staff, during this period, produced eight different drafts to address this problem -- the first effort being 12 pages in length with successive versions ranging up to 26 pages in length. None of the versions produced language upon which a consensus position could be based.

Kahn/Geller Proposal

After this experience in February, Chairman Van Deerlin, in March of this year, asked Alfred Kahn to see if he and his staff (working in conjunction with Henry Geller) could come up with a proposal that would satisfy these concerns. Mr. Kahn agreed.

During March and the first two weeks of April, Mr. Kahn and Mr. Geller worked arduously to come up with a solution. On April 15, 1980, they sent their legislative language to Chairman Van Deerlin. (See Exhibit #4)

Intervening between Chairman Van Deerlin's request to Alfred Kahn and the completion of his and Mr. Geller's proposal, came the FCC's decision in Computer Inquiry II. The structure for AT&T specified by that decision for engaging in unregulated activities was the creation of a separate subsidiary for marketing, which in almost all material

aspects was like the separate subsidiary requirements adopted by the Subcommittee on Communications in January. The Commission did not require any restructuring of Bell Labs nor Western Electric.

The Kahn/Geller proposal called for additional structural provisions -- namely dividing Western Electric and Bell Labs into structural units, one supporting regulated activities and one supporting unregulated activities. These requirements were to go into effect immediately upon date of enactment. In addition, there were detailed provisions relating to information flows between various entities of the Bell System.

In many material respects these provisions of Kahn/Geller resembled closely several of the staff drafts of February. I advised Chairman Van Deerlin that I, for one, could not support the Kahn/Geller proposal. I believed it to be an unworkable plan and entirely too complex.

During February, March and April, however, I had had my staff inquire into the details of the activities of Western Electric and Bell Labs. This was information which I had previously not sought because structural change in Western Electric and Bell Labs had not been an issue -- the previous policy choices had been either total divestiture of Western Electric or an accounting division.

I had the staff inquire into what each Western Electric plant manufactured, for which product, where the output of the plants went, and how Western Electric was structured.

What I learned was that Western Electric is generally structured along final assembly, subassembly, and component lines with its various 22 plants falling generally into one of the three categories. Based upon this data, I was able to determine that the final assembly operations were largely, but not completely, already separated into activities that were severable in a relatively short period of time. For instance, the Western Electric plant in Denver performs the final assembly for PBX's and Keysets, which would be unregulated products by the terms of the legislation. On the other hand a plant such as the Dallas plant, performs the final assembly for No. 4 ESS's, which are used primarily by the regulated network. Both plants needed some time to disaggregate because both produced some equipment used by other Western Electric plants.

When I followed the progression down the manufacturing chain, I learned that subassembly operations were less disaggregated than final assembly and components even less so.

Opponents of H.R. 6121 were saying repeatedly that what they wanted was a subsidiary for unregulated activities with its own research and development as well as manufacturing capabilities. In other words, a marketing only subsidiary was not enough. Such a structure was, in my view, cleaner, more readily embraceable and would provide for greater protection. I was intrigued by the possibility of such a structural solution. Two letters from IDCMA (Independent Data Communications Manufacturers Association) are representative of the feeling expressed by many AT&T competitors. (See Exhibits #5 and #6) I quote from two of their letters:



(1) "The most serious defect in this bill is its failure to require full separation of Western Electric (and associated research and development functions) from other components of the Bell System." (See letter to Chairman Van Deerlin, dated January 17, 1980)

(2) "Although H.R. 6121 purports to require AT&T to keep its competitive terminal equipment "fully separated" from its monopoly resources and activities, the bill fails to require separation of several major components of any equipment business: research, design and manufacturing. Only marketing is separated." (Emphasis added) (See letter to Chairman Van Deerlin dated April 30, 1980)

Broyhill Structure Proposal

On April 30, 1980, I put forth my own proposal for Bell System structure (see Exhibit #7) which called for the total separation of manufacturing and research and development which supports unregulated activities into the separate subsidiary.

I knew that this transfer could not occur too rapidly because all but one of Western Electric's plants had to be restructured according to my investigation. Over what period of time should this occur, I was really not certain. Nor was I entirely certain that it could be accomplished at all without serious economic dislocation. I believed, however, that such a move would be good public policy as well as being responsive to the concerns of the opponents of the legislation.

As to the timing of this transition to a stand alone competitive subsidiary, my staff and I really did not know of anyone that could tell us how long it would take. No one who testified at any of our hearings gave testimony which would indicate any ability to gauge this. We thought about the Commission, but it does not have jurisdiction over Bell Labs and Western Electric -- so why would it know. We knew that NTIA did not have any hard information on this point because they had not studied this type of approach. I could have asked AT&T, but I believed that they would have said one of two things: either the task was impossible or it would take an inestimable number of years.

The public policy goal that I was seeking to achieve was certainty for both AT&T and its competitors. So in my original proposal I specified the time periods in which to accomplish this undertaking. After receiving my proposal, AT&T told me the time periods were much too short. AT&T competitors, on the other hand, told me that they were far too long. This led me to conclude that I was about right.

The time periods for the transition became one of the two most controversial aspects of my proposal. After discussing my proposal at length with members of the Subcommittee on Communications, especially Chairman Van Deerlin and Tim Wirth from Colorado who both approved of my proposal and who have been the prime movers in pushing for telecommunications reform legislation, the time periods were shortened initially to a 10-year transition and then to an 8-year transition rather than my original 12-year transition.

The second controversial aspect of my proposal was the fact that I specifically provided for no further restructuring of Bell Labs and Western Electric by the Commission. Again my goal was certainty for both AT&T and its competitors because one of the major goals of this legislation was to bring certainty to an industry where the rules of the game were changing constantly. This certainty, of course, reaches only to the Commission and does not in any way limit the applicability of the antitrust laws nor does it limit the power of the courts to impose any remedy. This is one of the reasons that I believed compelled Congress to act.

It was argued that my proposal was taking away power from the Commission. I believed that such was clearly not the case. And in making this determination, I took into account two objective pieces of evidence. First, there is Section 2(a) of the 1934 Communications Act which specifies the jurisdiction of the Commission by saying: "The provisions of this Act shall apply to all interstate and foreign communications by wire or radio and all interstate and foreign transmission of energy by radio which originates and/or is received within the United States and to all persons engaged within the United States in such communications or transmission of energy by radio..." Bell Labs and Western Electric do not meet any of these requirements. In other words, the 1934 Act was established to regulate carriers -- research corporations and manufacturing corporations are not carriers.

Secondly and equally important was the fact that the Commission has agreed with my interpretation of the 1934 Act in its Amicus brief (see Exhibit #8) in the case of U.S. v AT&T (Civil Action No. 74-1698).

In this brief, the Commission states:

"The Commission has no direct regulatory responsibility for the non-operating activities and affiliates of the Bell System, i.e. Western Electric and Bell Laboratories, although the Commission's function requires it to ensure that no unreasonable rates and regulations result from the vertically integrated AT&T structure. Thus, the Commission's scrutiny of activities of Western Electric and Bell Laboratories consists of determining the reasonableness of expense and rate base items claimed as a result of dealings with these affiliates." (Emphasis added)

My structure proposal leaves entirely intact whatever structural authority over the dominant carrier the Commission has under the 1934 Act. Furthermore, the Commission has the authority to restructure the separate subsidiary upon reregulation pursuant to the provision of Section 214(b) of H.R. 6121.

Although my structural proposal has been "fine tuned" by virtue of a number of helpful amendments, it remains in its material respects essentially as I proposed it on April 30, 1980. My colleagues on the Subcommittee on Communications supported it by a vote of 10-3 in June when the legislation was reconsidered by the Subcommittee. H.R. 6121 was reported by the Committee on Interstate and Foreign Commerce with this structural proposal contained in it by a vote of 34-7 on July 31, 1980.

Conclusion

We on the Commerce Committee, after five years of continuous work in this area, have sought to bring before the House legislation which establishes the framework for the telecommunications industry for the future -- not just to meet current or past problems. I have often been highly critical of the practice in Congress of dealing only with problems retrospectively and not prospectively establishing rules and guidelines for the future. In H.R. 6121 we tried our very best to do just that. This is why I was so actively involved in this process.

I believe that we have been conscientious and forthright. This legislation is not a patchwork quilt nor a series of band-aids applied to various problems. On the contrary, it is a serious effort to deal in a responsible manner with one of this country's most vital industries.

Certainly not everyone is pleased with our efforts. We did not set out to accomplish that goal. In fact, I know of no one completely pleased with our legislation. However, the members of our Committee have given it an overwhelming endorsement after intense lobbying and hearing all of the arguments and counter-arguments.

There are those who oppose this legislation because they are benefitted by the status quo. I readily admit that the status quo does serve several very narrow special interests. The status quo, however, does not serve the users of telecommunications services, the telecommunications industry nor the best interests of the United States.

Exhibit 1

95TH CONGRESS  
2D SESSION

H. R. 13015

IN THE HOUSE OF REPRESENTATIVES

JUNE 7, 1978

Mr. VAN DEERLIN (for himself and Mr. FRENZ) introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To establish certain requirements relating to interstate and foreign telecommunications, and for other purposes:

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

3 SHORT TITLE; TABLE OF CONTENTS

4 SECTION 1. This Act may be cited as the "Communi-  
5 cations Act of 1978".

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROVISIONS

Sec. 101. Findings.

Sec. 102. Application of Act.

Sec. 103. Definitions.

I

1

2

3

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9 TITLE III—COMMON CARRIER

10 TELECOMMUNICATIONS

11 PART A—GENERAL PROVISIONS

12 CLASSIFICATION OF COMMON CARRIERS AND SERVICES

13 SEC. 311: (a) The Commission shall determine whether

14 any person is a common carrier for purposes of this title,

15 shall classify carriers and interstate telecommunications

16 services subject to this title, and may prescribe different

17 requirements under this title for different classes. The

18 Commission may exempt any of the classes from any require-

19 ment of this title. In classifying services under this title,

20 the Commission shall determine which telecommunications

21 services are noncompetitive services.

22 (b) Not less than once every 5 years the Commission

23 shall reexamine the need for any requirement imposed by

24 the Commission under this title on any common carriers or

25 interstate telecommunications services, or class of such car-

1 riers or services, established under this section. If the Com-  
 2 mission does not find that the requirements are necessary to  
 3 achieve the purposes of this title, it shall eliminate the  
 4 requirements.

5 (c) The Commission shall make an annual report to  
 6 the Congress on its findings under this section and the rea-  
 7 sons for actions taken in accordance with such findings.

8 SERVICE, INTERCONNECTION, AND RATES

9 SEC. 312. (a) Every common carrier shall furnish serv-  
 10 ice when a reasonable request is made for such service.

11 (b) Every common carrier shall establish connection,  
 12 when a reasonable request is made for such connection, with  
 13 any other carrier unless the Commission determines that—

14 (1) the establishment of such connection will  
 15 result in substantial technical or economic harm to the  
 16 common carrier from whom connection is sought; and

17 (2) the harm to the carrier exceeds the benefits  
 18 to the public which would be created by the connection  
 19 being requested.

20 (c) All rates and terms relating to the provision of the  
 21 telecommunication service or connection provided for in this  
 22 section shall be equitable. Any rate or term shall be presumed  
 23 to be equitable unless the service being provided is a non-  
 24 competitive service.



1 . . . . . SCHEDULE OF RATES.

2 SEC. 313. (a) Every common carrier shall file with the  
3 Commission and make available for public inspection sched-  
4 ules showing all rates and terms for any service which it  
5 provides.

6 (b) The Commission shall determine the form and con-  
7 tent of the schedules required in this section and shall pre-  
8 scribe the manner in which such schedules shall be made  
9 available for public inspection.

10 (c) No change shall be made in schedules filed with the  
11 Commission, and no new rate shall take effect, under this  
12 section until the end of the 45-day period following notice  
13 given by the common carrier proposing the change to the  
14 Commission and to the public.

15 (d) The Commission may, in its discretion and for good  
16 cause shown, in modify any requirement made by or under the  
17 authority of this section either in particular instances or by  
18 general order applicable to special circumstances or condi-  
19 tions, except that the Commission may not require the notice  
20 period specified in subsection (c) to be more than 45 days.

21 HEARINGS ON RATES; AUTHORIZATION TO PRESCRIBE RATES

22 SEC. 314. (a) Any rate filed with the Commission, in  
23 accordance with section 313, shall become effective at the end  
24 of the 45-day period following the date of filing (or any other  
25 period specified by the Commission under section 313 (d) )

1 (b) (1) The Commission may, either upon complaint or  
2 upon its own initiative, order a hearing, not later than 45  
3 days after the date of filing of the rate and after notice to  
4 any common carrier involved, to determine whether the  
5 rate is equitable and lawful. The Commission may by order  
6 require such carrier to keep accurate account of all amounts  
7 received under such rate, specifying by whom and in whose  
8 behalf such amounts are paid.

9 (2) For purposes of this subsection, the burden of proof  
10 to show that a rate is equitable and lawful shall be upon the  
11 carrier.

12 (3) The Commission shall give the hearing and deci-  
13 sion under this subsection preference over all other matters  
14 pending before it and shall decide the questions involved  
15 not later than 9 months after the date the rate is designated  
16 for hearing. If the Commission fails to make a decision before  
17 the end of such period, the rate shall be presumed to be  
18 equitable and lawful.

19 (c) Whenever, in accordance with subsection (b),  
20 the Commission determines that any rate, or portion of a rate,  
21 relating to the provision of a noncompetitive service is in-  
22 equitable or unlawful, it shall require any common carrier in-  
23 volved to refund, with interest, any amount received under  
24 such rate which the Commission determines to be inequitable  
25 or unlawful; or the Commission shall require such carrier

1 to take other appropriate action, in any case in which the  
 2 Commission determines that the amount of the rate is less  
 3 than the amount required for an equitable or lawful rate.

4 The Commission shall also—

5 (1) require such carrier to file, not later than 90  
 6 days after such determination, a new rate which shall  
 7 conform with requirements set forth in the decision of  
 8 the Commission; or

9 (2) determine and prescribe the equitable and  
 10 lawful rate.

#### 11 ACCOUNTS AND RECORDS

12 SEC. 315. The Commission shall prescribe the forms of  
 13 accounts and records to be filed with the Commission by  
 14 common carriers subject to this Act. It shall be unlawful for  
 15 any carrier to file forms other than those prescribed by the  
 16 Commission. The Commission may prescribe different re-  
 17 quirements under this section for different classes of carriers.

#### 18 VALUATION OF COMMON CARRIER PROPERTY

19 SEC. 316. (a) The Commission may, after notice and  
 20 opportunity for hearing, make a valuation of all or any part  
 21 of the property owned or used by any common carrier sub-  
 22 ject to this Act, as of such date as the Commission may fix.

23 (b) The Commission may require any common carrier  
 24 subject to this Act to provide such information as the Com-  
 25 mission considers necessary to make the valuation authorized  
 26 in subsection (a).

## DEPRECIATION

1  
2 SEC. 317. (a) The Commission shall prescribe for com-  
3 mon carriers subject to this Act the classes of property for  
4 which depreciation charges may be included under operating  
5 expenses and the percentages of depreciation which shall be  
6 charged with respect to such classes of property, classifying  
7 the carriers as it may consider proper for such purpose.

8 (b) The initial determination required in this section  
9 shall be made not later than 6 months after the effective  
10 date of this Act. The Commission shall review such determi-  
11 nation periodically, but not less than once every 5 years,  
12 and shall take into account changes in the economic value  
13 of the assets of the common carriers.

## ANNUAL REPORTS; GENERAL INFORMATION; COPIES OF

## CONTRACTS

14  
15  
16 SEC. 318. (a) The Commission may require annual re-  
17 ports from all common carriers subject to this Act, and from  
18 persons directly or indirectly controlling or controlled by, or  
19 under direct or indirect common control with, any such car-  
20 rier. The Commission shall prescribe the form and manner in  
21 which such reports shall be made and shall establish by reg-  
22 ulation the information required to be included in such  
23 reports.

24 (b) The Commission may obtain from all common car-  
25 riers subject to this Act and from persons directly or indirect-

1 ly controlling or controlled by, or under direct or indirect  
 2 common control with, such carriers any information necessary  
 3 to the exercise and performance of its powers and duties.

4 (c) The Commission may require any common carrier  
 5 subject to this Act to file with the Commission copies of any  
 6 contract, agreement, or arrangement relating to the provi-  
 7 sion of service by such carrier, including any contract, agree-  
 8 ment, or other arrangement with carriers not subject to the  
 9 provisions of this Act.

10 LIABILITY OF COMMON CARRIERS FOR DAMAGES; RECOVERY  
 11 OF DAMAGES

12 SEC. 319. (a) Any common carrier which performs an  
 13 act prohibited by this Act or fails to perform an act required  
 14 by this Act shall be liable to any person injured by his act  
 15 or omission for the full amount of damages sustained, and for  
 16 reasonable attorney fees.

17 (b) Any person claiming to be damaged by a common  
 18 carrier may elect either to make a complaint with the Com-  
 19 mission as provided for in this section or to bring suit for  
 20 recovery of damages against such carrier in any district  
 21 court of the United States having jurisdiction.

22 (c) Any person electing to make complaint to the  
 23 Commission as provided for in this section shall do so in  
 24 writing briefly stating the facts. The Commission shall notify  
 25 in writing the common carrier involved not later than 5 days

1 after receipt of such complaint and shall require such carrier  
 2 either to satisfy the complaint or to respond to the complaint  
 3 in writing not later than 30 days after receipt of the notice  
 4 made by the Commission. If the carrier does not satisfy  
 5 the complaint and if, after notice and hearing, the Com-  
 6 mission finds that the complainant is entitled to an award  
 7 of damages, the Commission shall by order direct the carrier  
 8 to pay the complainant the appropriate amount.

9 PART B—DOMESTIC COMMON CARRIERS

10 DECLARATION OF PURPOSE

11 SEC. 331. In the exercise and performance of its powers  
 12 and duties under this part, the Commission shall—

- 13 (1) place maximum feasible reliance on market-  
 14 place forces to achieve the purposes of this part;
- 15 (2) promote the maintenance of nationwide basic  
 16 voice telephone service at affordable rates achieved by  
 17 regulation (when marketplace forces are deficient),  
 18 which provides for equitable treatment of all common  
 19 carriers and by direct assistance where appropriate;
- 20 (3) rely on competition to provide efficiency, inno-  
 21 vation, and low rates, and to determine the variety,  
 22 quality; and cost of telecommunications services;
- 23 (4) establish full and fair competitive conditions;  
 24 and

1           (5) prevent practices which would allow any carrier  
2           to limit or exclude competition in the provision of  
3           telecommunications services.

4           COMMON CARRIER HOLDINGS IN OTHER COMPANIES

5           SEC. 332. Notwithstanding any other provision of law  
6           or any judicial determination or decree, and except as pro-  
7           vided in section 333, any common carrier may hold or acquire  
8           shares of any separate company which engages in any activ-  
9           ity, provides any service, or offers any product which the  
10          Commission, after notice and opportunity for hearing, has  
11          determined to be telecommunications or to be incidental to  
12          telecommunications. In determining whether an activity,  
13          service, or product, is telecommunications or incidental to  
14          telecommunications, the Commission shall consider whether  
15          its performance by an affiliated company is consistent with  
16          the purposes of this part.

17          RESTRICTION ON MANUFACTURE OF EQUIPMENT

18          SEC. 333. (a) No person shall provide a noncompetitive  
19          telecommunications service and also be engaged in the manu-  
20          facture of equipment used in furnishing any domestic common  
21          carrier service.

22          (b) The provisions of this section shall take effect at  
23          the end of the 3-year period following the date of the  
24          enactment of this Act.

1 ACCESS CHARGE; UNIVERSAL SERVICE COMPENSATION  
 2 FUND  
 3 SEC. 334. (a) Any person who provides an intercity  
 4 telecommunications service or facility which is physically  
 5 connected, directly or indirectly, with local exchange switch-  
 6 ing facilities and plant shall pay an access charge to the Uni-  
 7 versal Service Compensation Fund established under sub-  
 8 section (b). The Commission shall ensure that such a charge  
 9 is calculated in a manner which treats all common carriers  
 10 equitably and promotes full and fair competition. The Com-  
 11 mission may, for purposes of this section, classify the property  
 12 of any carrier in order to determine to which service costs  
 13 should be assigned.

14 (b) The Commission shall establish and administer a  
 15 Universal Service Compensation Fund in order to maintain  
 16 toll telephone service and local exchange telephone service  
 17 rates at affordable levels and to ensure the nationwide avail-  
 18 ability of basic voice telephone service. The fund shall consist  
 19 of the payments made under subsection (a). The Commission  
 20 shall establish guidelines and conditions for the distribution  
 21 of funds under this subsection.

22 (c) All information and data required under this sec-  
 23 tion shall be maintained at the principal office of the Com-  
 24 mission and shall be available for public inspection.