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101ST CONGRESS
1ST SESSION

S. 1981

To permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 21 (legislative day, NOVEMBER 6), 1989

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

A BILL

To permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Telecommunications
5 Equipment Research and Manufacturing Competition Act of
6 1989".

7 **SEC. 2. FINDINGS.**

8 The Congress finds that the continued economic growth
9 and the international competitiveness of American industry
10 would be assisted by permitting the Bell Telephone Compa-

1 nies to conduct research on, design, develop, manufacture,
2 and market telecommunications equipment for American resi-
3 dential and business telecommunications users.

4 **SEC. 3. AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934.**

5 (a) **IN GENERAL.**—Title II of the Communications Act
6 of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the
7 end the following new section:

8 **“REGULATION OF MANUFACTURING BY BELL TELEPHONE**
9 **COMPANIES**

10 **“SEC. 225. (a)** Subject to the requirements of this sec-
11 tion and the regulations prescribed thereunder, a Bell Tele-
12 phone Company may conduct research on and manufacture
13 and provide telecommunications equipment, notwithstanding
14 any restriction or obligation imposed before the date of enact-
15 ment of this section pursuant to the antitrust laws on the
16 lines of business in which a Bell Telephone Company may
17 engage, except that a Bell Telephone Company may not
18 engage in such manufacturing or provision or both through a
19 joint manufacturing agreement with another Bell Telephone
20 Company.

21 **“(b)** Any Bell Telephone Company engaged in any ac-
22 tivity authorized under subsection (a) shall conduct such ac-
23 tivity other than basic research only through a subsidiary that
24 is fully separate from any other entity owned or otherwise
25 affiliated with any Bell Telephone Company, including any
26 affiliate of one or more of the Bell Telephone Companies that

1 provides telecommunications services over the telephone net-
2 work. The Commission shall issue rules to ensure that such
3 subsidiary shall—

4 “(1) maintain books, records, and accounts sepa-
5 rate from the parent Bell Telephone Company which
6 identify all transactions with such parent Company
7 and, even if such subsidiary is not a publicly held cor-
8 poration, prepare financial statements which are in
9 compliance with Federal financial reporting require-
10 ments for publicly held corporations, file such state-
11 ments with the Commission, and make such statements
12 available for public inspection;

13 “(2) consistent with the provisions of this section,
14 carry out directly its own marketing, sales, advertising,
15 installation, production, maintenance operations, manu-
16 facturing, and research and development relating to the
17 equipment it provides, except that institutional adver-
18 tising of a type not related to specific telecommunica-
19 tions equipment carried out by the parent Bell Tele-
20 phone Company shall be permitted if each party pays
21 its pro rata share;

22 “(3) conduct all of its manufacturing activity, in-
23 cluding design and development as well as fabrication,
24 and including the manufacture of components, within
25 the United States;

1 “(4) have no more than 90 per centum of its
2 equity owned by its parent Bell Telephone Company;

3 “(5) acquire all of the debt necessary to finance
4 itself from the financial markets outside the operations
5 of its parent Bell Telephone Company, and be prohibit-
6 ed from acquiring debt in a manner that would permit
7 a creditor, on default, to have recourse to the assets of
8 the Bell Telephone Company’s telecommunications
9 services business; and

10 “(6) shall operate at all times on an arms-length
11 basis from any of its parent Bell Telephone Company’s
12 other businesses, including the Bell Telephone Com-
13 pany’s telecommunications services businesses.

14 “(c) The Commission shall issue regulations requiring
15 that any Bell Telephone Company that engages in any activ-
16 ity authorized by subsection (a) shall—

17 “(1) provide to other telecommunications equip-
18 ment manufacturers opportunities to sell such equip-
19 ment to itself or any of its affiliates which are compa-
20 rable to the opportunities which it provides to itself or
21 any of its affiliates; and

22 “(2) not subsidize its fully separated subsidiary
23 with revenues from its regulated telecommunications
24 services.

1 “(d) For the purposes of administering and enforcing the
2 provisions of this section and the regulations prescribed
3 thereunder, the Commission shall have the same authority,
4 power, and functions with respect to any Bell Telephone
5 Company as the Commission has in administering and enforce-
6 ing the provisions of this title with respect to any common
7 carrier subject to this Act.

8 “(e) The authority of the Commission to prescribe regu-
9 lations to carry out this section is effective on the date of
10 enactment of this section. The Commission shall prescribe
11 such regulations within one hundred and eighty days after
12 such date of enactment.

13 “(f) As used in this section:

14 “(1) The term ‘affiliate’ means any entity (A) that
15 is under direct or indirect common ownership by a Bell
16 Telephone Company, or directly or indirectly owns a
17 Bell Telephone Company, (B) that is under direct or
18 indirect control by a Bell Telephone Company, or di-
19 rectly or indirectly controls a Bell Telephone Compa-
20 ny, or (C) in which a Bell Telephone Company or its
21 other affiliates directly or indirectly (i) have an equity
22 interest (or the equivalent thereof) of more than 10 per
23 centum or (ii) exercise substantial management influ-
24 ence.

1 “(2) The term ‘antitrust laws’ has the meaning
2 given such term by subsection (a) of the first section of
3 the Clayton Act (15 U.S.C. 12(a)).

4 “(3) The term ‘Bell Telephone Company’ means
5 those companies listed in appendix A of the Modifica-
6 tion of Final Judgment entered August 24, 1982, in
7 United States v. Western Electric, Civil Action No.
8 82-0192 (United States District Court, District of Co-
9 lumbia), and includes any successor or assign of any
10 such company, but does not include any affiliate of any
11 such company.

12 “(4) The term ‘manufacturing’ has the same
13 meaning as such term has in the Modification of Final
14 Judgment entered August 24, 1982, in United States
15 v. Western Electric, Civil Action No. 82-0192 (United
16 States District Court, District of Columbia) as inter-
17 preted in United States v. Western Electric, Civil
18 Action No. 82-0192 (United States District Court,
19 District of Columbia) (filed December 3, 1987).

20 “(5) The term ‘telecommunications’ means the
21 transmission, between or among points specified by the
22 customer, or information of the customer’s choosing,
23 without change in the form of content of the informa-
24 tion as sent and received, by means of an electromag-
25 netic transmission medium, including all instrumental-

1 ities, facilities, apparatus, and services (including the
2 collection, storage, forwarding, switching, and delivery
3 of such information) essential to such transmission.

4 “(6) The term ‘telecommunications equipment’
5 means equipment, including customer premises equip-
6 ment, telecommunications products used by a carrier to
7 provide telecommunications services, and software nec-
8 essary to operate such equipment.

9 “(7) The term ‘telecommunications service’ means
10 the offering for hire of telecommunications facilities, or
11 of telecommunications by means of such facilities.”.

12 (b) CONFORMING AMENDMENT.—Section 2(b) of the
13 Communications Act of 1934 is amended by striking “section
14 224” by inserting “sections 224 and 225”.

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Document No. 103

