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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
THE COMMUNICATIONS DECENCY ACT**

**Volume 6
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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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Section VII: Related Bills (Continued from Volume 5)

- Doc. No. 116** - S. 1822, Communications Act of 1994 - Report No. 103-367 with an amendment. Introduced by Sen. Hollings, et. al., and referred to the Committee on Commerce, Science, and Transportation, United States Senate, 103d Congress, 2d Session (September 14, 1994).
- Doc. No. 117** - H.R. 411 - Antitrust and Communications Reform Act of 1995. Introduced by Mr. Dingell, et. al., and referred to the House Commerce Committee and the House Judiciary Committee, House of Representatives, 104th Congress, 1st Session (January 4, 1995).
- Doc. No. 118** - H.R. 514 - Bill to Repeal Restrictions on Foreign Ownership of Licensed Telecommunications Facilities. Introduced by Rep. Oxley, et. al. and referred to the Committee on Commerce, House of Representatives, 104th Congress, 1st Session, (January 13, 1995).
- Doc. No. 119** - H.R. 912 - Bill to Permit Registered Utility Holding Companies to Participate in the Provision of Telecommunications Services. Introduced by Rep. Gillmor, et. al. and referred to the Committee on Commerce, House of Representatives, 104th Congress, 1st Session (February 13, 1995).
- Doc. No. 120** - H.R. 1556 - Bill to Amend the Communications Act of 1934 to Reduce the Restrictions on Ownership of Broadcasting Stations and Other Media of Mass Communications. Introduced by Rep. Stearns, et. al., and referred to the Committee on Commerce, House of Representatives, 104th Congress, 1st Session (May 3, 1995).

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Section VIII - Congressional Record - Related Bills

- Doc. No. 121** - 135 CONG. REC. S16800 (daily ed. November 21, 1989) (remarks by Sen. Hollings on Telecommunications Equipment, Research, and Manufacturing Competition).
- Doc. No. 122** - 137 CONG. REC. S868-69 (daily ed. January 14, 1991) (remarks by Sen. Hollings on the Telecommunications Equipment, Research, and Manufacturing Competition Act of 1991).
- Doc. No. 123** - 137 CONG. REC. E1022-25 (daily ed. March 10, 1991) (extension of remarks by Rep. Slattery on the introduction of the Telecommunications Equipment, Research, and Manufacturing Competition Act of 1991).
- Doc. No. 124** - 137 CONG. REC. S6437-39 (daily ed. May 22, 1991) (Senate Amendment No. 260 to be proposed to S. 173 by Sen. Pressler).
- Doc. No. 125** - 137 CONG. REC. S6891 (daily ed. May 24, 1991) (Senate Amendments 277-279 to be proposed to S. 173 by Sen. Pressler).
- Doc. No. 126** - 137 CONG. REC. S6910-11 (daily ed. June 3, 1991) (remarks by Sen. Pressler on the proposed amendment to the Telecommunications Equipment, Research, and Manufacturing Competition Act).
- Doc. No. 127** - 137 CONG. REC. S7047 (daily ed. June 4, 1991) (Senate Amendment to be proposed to S. 173 by Sen. Pressler).
- Doc. No. 128** - 137 CONG. REC. S6911-17, S6959-71, S6975-87, S6989-90, S7065-85, S7088-7108 (daily eds. June 3-5, 1991) (Senate Consideration and Passage of S. 173).
- Doc. No. 129** - 137 CONG. REC. S7224-25 (daily ed. June 5, 1991) (Senate Amendments to be proposed to S. 173 by Sen. Inouye et. al.).

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- Doc. No. 130** - 137 CONG. REC. E2053-54 (daily ed. June 5, 1991) (remarks by Rep. Markey on "Bell Companies and the line of Business Restrictions").
- Doc. No. 131** - 137 CONG. REC. S7264 (daily ed. June 6, 1991) (remarks by Sen. Wallop regarding S. 173).
- Doc. No. 132** - 138 CONG. REC. H3038-39 (daily ed. May 7, 1992) (remarks by Rep. Brooks on a Comprehensive Telecommunications Antitrust Policy).
- Doc. No. 133** - 138 CONG. REC. H8908-09 (daily ed. September 22, 1992) (notifying Members of Committee on Rules Committee plans regarding H.R. 5096 and H.R. 1637).
- Doc. No. 134** - 138 CONG. REC. E2762 (daily ed. September 23, 1992) (extension of remarks by Rep. Stark on H.R. 5096).
- Doc. No. 135** - 138 CONG. REC. E3025 (daily ed. October 4, 1992) (remarks of Rep. James on H.R. 5096).
- Doc. No. 136** - 138 CONG. REC. H11296-97 (daily ed. October 4, 1992) (extension of remarks by Rep. James on H.R. 5096).
- Doc. No. 137** - 138 CONG. REC. E3087-88 (daily ed. October 9, 1992) (extension of remarks by Rep. Pursell on H.R. 5096).
- Doc. No. 138** - 138 CONG. REC. E3179-80 (daily ed. October 9, 1992) (extension of remarks by Rep. Hastert on Bell Co. Telecommunications Equipment Manufacturing).
- Doc. No. 139** - 139 CONG. REC. S2640-1 (daily ed. March 10, 1993) (remarks of Sen. Bumpers on S.544).
- Doc. No. 140** - 139 CONG. REC. S2683 (daily ed. March 10, 1993) (amendments to S.544).
- Doc. No. 141** - 139 CONG. REC. S3523 (daily ed. March 10, 1993) (remarks of Sen. Riegle on amending the Public Utility Holding Act).

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- Doc. No. 142** - 139 CONG. REC. E2981 (daily ed. November 20, 1993) (remarks by Rep. Markey on the Telecommunications and Financial Services Fair Trade Act of 1993).
- Doc. No. 143** - 139 CONG. REC. H10911 (daily ed. November 22, 1993) (remarks of Rep. Brooks on H.R. 3626).
- Doc. No. 144** - 139 CONG. REC. H10911 (daily ed. November 22, 1993) (remarks of Rep. Dingell on H.R. 3626).
- Doc. No. 145** - 139 CONG. REC. E3114-15 (daily ed. November 24, 1993) (extension of remarks of Rep. Markey on the National Communications Competition and Information Infrastructure Act of 1993).
- Doc. No. 146** - 140 CONG. REC. S771-88 (daily ed. February 3, 1994) (remarks by Sen. Hollings on S.1822).
- Doc. No. 147** - 140 CONG. REC. E112 (daily ed. February 3, 1994) (extension of remarks by Rep. Markey on Telecommunications Infrastructure Legislation).
- Doc. No. 148** - 140 CONG. REC. S6942-45 (daily ed. June 15, 1994) (remarks of Sen. Inouye on the National Public Telecommunications Infrastructure Act of 1994).
- Doc. No. 149** - 140 CONG. REC. E1332 (daily ed. June 27, 1994) (remarks of Rep. Nussle on H.R. 3626 and H.R. 3636).
- Doc. No. 150** - 140 CONG. REC. H5189-5216 (daily ed. June 28, 1994) (House Consideration and Passage of H.R. 3626).
- Doc. No. 151** - 140 CONG. REC. H5216-5248 (daily ed. June 28, 1994) (House Consideration and Passage of H.R. 3636).
- Doc. No. 152** - 140 CONG. REC. E1368 (daily ed. June 29, 1994) (extension of remarks by Rep. Quinn on the Anti-trust and Communications Reform Act of 1994).
- Doc. No. 153** - 140 CONG. REC. E1387-88 (daily ed. June 30, 1994) (extension of remarks by Rep. Hastert on

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the Antitrust and Communications Reform Act of 1994).

- Doc. No. 154** - 140 CONG. REC. E1389-90 (daily ed. June 30, 1994) (extension of remarks by Rep. Hughes on the Antitrust and Communications Reform Act of 1994).
- Doc. No. 155** - 140 CONG. REC. E1390 (daily ed. June 30, 1994) (extension of remarks by Rep. Swett on H.R. 3636).
- Doc. No. 156** - 140 CONG. REC. E1398 (daily ed. June 30, 1994) (extension of remarks by Rep. Hughes on National Communications Competition and Information Infrastructure Act of 1994).
- Doc. No. 157** - 140 CONG. REC. E1435-36 (daily ed. July 12, 1994) (extension of remarks by Rep. Kyl on H.R. 3626 and H.R.3636).
- Doc. No. 158** - 140 CONG. REC. E1439-40 (daily ed. July 12, 1994) (extension of remarks by Rep. Slattery on Building Our Telecommunications Infrastructure).
- Doc. No. 159** - 140 CONG. REC. E1450 (daily ed. July 13, 1994) (extension of remarks by Rep. Paxon on the National Communications Competition and Information Infrastructure Act of 1994).
- Doc. No. 160** - 140 CONG. REC. S9745-47 (daily ed. July 26, 1994) (text of Exon Amendment No. 2404 to S.1822).
- Doc. No. 161** - 140 CONG. REC. S12943-44 (daily ed. September 14, 1994) (text of Robb Amendment No. 2584 to S.1822).
- Doc. No. 162** - 140 CONG. REC. S13823-26 (daily ed. September 30, 1994) (remarks by Sen. Pressler on U.S. Communications Laws).

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Document No. 116

Calendar No. 610

103^D CONGRESS
2^D SESSION

S. 1822

[Report No. 103-367]

To foster the further development of the Nation's telecommunications infrastructure and protection of the public interest, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 3 (legislative day, JANUARY 25), 1994

Mr. HOLLINGS (for himself, Mr. DANFORTH, Mr. INOUE, Mr. STEVENS, Mr. EXON, Mr. PRESSLER, Mr. ROCKEFELLER, Mr. BURNS, Mr. ROBB, Mr. GORTON, Mr. DORGAN, Mr. KERREY, Mr. KERRY, Mr. BOND, Ms. MOSELEY-BRAUN, Mr. AKAKA, Mr. LOTT, Mr. MATHEWS, and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

SEPTEMBER 14 (legislative day, SEPTEMBER 12), 1994

Reported by Mr. HOLLINGS, with an amendment

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

A BILL

To foster the further development of the Nation's telecommunications infrastructure and protection of the public interest, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the "Communications Act
3 of 1994".

4 **SEC. 2. FINDINGS.**

5 The Congress finds that—

6 (1) Congress has not passed a broad review of
7 the Communications Act of 1934 since that Act was
8 originally passed;

9 (2) Congress must pass comprehensive commu-
10 nications legislation to promote the development and
11 growth of the national information superhighway;

12 (3) changes in the telecommunications market-
13 place have made some of the provisions of the Com-
14 munications Act of 1934 obsolete, unnecessary, or
15 inimical to advances in communications technologies
16 and services;

17 (4) for instance, competition has emerged in
18 many services that were previously thought to be
19 natural monopolies; but the Communications Act of
20 1934 requires all carriers to be regulated as if they
21 were monopolies;

22 (5) as communications markets change, govern-
23 ment must ensure that the public interest, conven-
24 ience and necessity is preserved;

25 (6) the public interest requires that universal
26 telephone service is protected and advanced, that

1 new telecommunications technologies are deployed
2 rapidly and equitably, and that access by schools,
3 hospitals, public broadcasters, libraries, other public
4 entities, community newspapers, and broadcasters in
5 the smallest markets to advanced telecommuni-
6 cations services is assisted;

7 (7) access to basic telecommunications services
8 is fundamental to safety of life and participation in
9 a democratic society;

10 (8) telecommunications networks make substan-
11 tial use of public rights of way in real property and
12 in spectrum frequencies, and carriers that make use
13 of such public rights of way have an obligation to
14 provide preferential rates to entities that provide sig-
15 nificant public benefits;

16 (9) advanced telecommunications services can
17 enhance the quality of life and promote economic de-
18 velopment and international competitiveness;

19 (10) telecommunications infrastructure develop-
20 ment is particularly crucial to the continued eco-
21 nomic development of rural areas that may lack an
22 adequate industrial or service base for continued de-
23 velopment;

24 (11) advancements in the Nation's tele-
25 communications infrastructure will enhance the pub-

1 lie welfare by helping to speed the delivery of new
2 services, such as distance learning, remote medical
3 sensing, and distribution of health information;

4 (12) infrastructure advancement can be assisted
5 by joint planning and infrastructure sharing by all
6 carriers providing communications services;

7 (13) increased competition in telecommuni-
8 cations services can, if subject to appropriate safe-
9 guards, encourage infrastructure development and
10 have beneficial effects on the price, universal avail-
11 ability, variety, and quality of telecommunications
12 services;

13 (14) the emergence of competition in tele-
14 communications services has already contributed,
15 and can be expected to continue contributing, to the
16 modernization of the infrastructure;

17 (15) competition in the long distance industry
18 and the communications equipment market has
19 brought about lower prices and higher quality serv-
20 ices;

21 (16) competition for local communications serv-
22 ices has already begun to benefit the public; com-
23 petitive access providers have deployed thousands of
24 miles of optical fiber in their local networks; local ex-
25 change carriers have been prompted by competition

1 to accelerate the installation of optical fiber in their
2 own networks;

3 ~~(17)~~ electric utilities; satellite carriers; and oth-
4 ers are prepared to enter the local telephone market
5 over the next few years;

6 ~~(18)~~ a diversity of telecommunications carriers
7 enhances network reliability by providing redundant
8 capacity; thereby lessening the impact of any net-
9 work failure;

10 ~~(19)~~ competition must proceed under rules that
11 protect consumers and are fair to all telecommuni-
12 cations carriers;

13 ~~(20)~~ all telecommunications carriers; including
14 competitors to the telephone companies; should con-
15 tribute to universal service and should make their
16 networks available for interconnection by others;

17 ~~(21)~~ removal of all State and local barriers to
18 entry into the telecommunications services market
19 and provision of national standards for interconnec-
20 tion are warranted after mechanisms to protect uni-
21 versal service and rules are established to ensure
22 that competition develops fairly;

23 ~~(22)~~ increasing the availability of interconnec-
24 tion and interoperability among the facilities of tele-

1 communications carriers will help stimulate the de-
2 velopment of fair competition among providers;

3 (23) the portability of telecommunications num-
4 bers will eliminate a significant advantage held by
5 traditional telephone companies over competitors in
6 the provision of telecommunications services;

7 (24) restrictions on resale and sharing of tele-
8 communications networks retard the growth of com-
9 petition and restrict the diversity of services avail-
10 able to the public;

11 (25) additional regulatory measures are needed
12 to allow consumers in rural markets and non-
13 competitive markets the opportunity to benefit from
14 high-quality telecommunications capabilities;

15 (26) regulatory flexibility for existing providers
16 of telephone exchange service is necessary to allow
17 them to respond to competition;

18 (27) the Federal Communications Commission
19 (hereinafter referred to as the "Commission") and
20 the States must have the flexibility to adjust their
21 regulations to the market power of each provider of
22 telecommunications services;

23 (28) the Commission should take steps to en-
24 sure network reliability and the development of net-
25 work standards;

1 ~~(20)~~ access to switched, digital telecommuni-
2 cations service for all segments of the population
3 promotes the core First Amendment goal of diverse
4 information sources by enabling individuals and or-
5 ganizations alike to publish and otherwise make in-
6 formation available in electronic form;

7 ~~(20)~~ the national welfare will be enhanced if
8 community newspapers and broadcasters in the
9 smallest markets are provided ease of entry into the
10 operation of information services disseminated
11 through electronic means primarily to customers in
12 the localities served by such newspapers and broad-
13 casters at reasonable, nondiscriminatory rates to
14 such newspapers;

15 ~~(31)~~ a clear national mandate is needed for full
16 participation in access to telecommunications net-
17 works and services by individuals with disabilities;

18 ~~(32)~~ the obligations of telecommunications ear-
19 riers includes the duty to furnish telecommuni-
20 cations services which are designed to be fully acces-
21 sible to individuals with disabilities in accordance
22 with such standards as the Commission may pre-
23 scribe;

24 ~~(33)~~ permitting the Bell operating companies to
25 enter the manufacturing market will stimulate great-

1 er research and development; create more jobs; and
2 enhance our international competitiveness;

3 (24) the Bell operating companies should be
4 permitted to provide long distance service for cable
5 television and for cellular hands off immediately be-
6 cause there is little harm, if any, that such entry
7 could cause the public;

8 (25) the Bell operating companies should not be
9 permitted to enter the market for other long dis-
10 tance services until they have eliminated the barriers
11 to competition and interconnection and until the Bell
12 operating company faces competition for local tele-
13 phone service;

14 (26) safeguards are necessary to ensure that
15 the Bell operating companies do not abuse their
16 market power over local telephone service to dis-
17 criminate against competitors in the markets for
18 electronic publishing, alarm, and other information
19 services;

20 (27) amending the legal barriers to the provi-
21 sion of video programming by telephone companies
22 in their service areas will encourage competition to
23 existing cable television service providers and en-
24 courage telephone companies to upgrade their tele-
25 communications facilities to enable them to deliver

1 video programming; as long as telephone companies
2 are prohibited from buying or combining with exist-
3 ing cable companies in their telephone service areas;
4 ~~(28)~~ as communications technologies and serv-
5 ices proliferate, consumers must be given the right
6 to control information concerning their use of those
7 technologies and services; and

8 ~~(29)~~ as competition in the media increases, the
9 Commission should reexamine the need for national
10 and local ownership limits on broadcast stations;
11 consistent with the need to maintain diversity of in-
12 formation sources.

13 **SEC. 3. EFFECT ON OTHER LAW.**

14 ~~(a)~~ **ANTITRUST LAWS.**—Nothing in this Act shall be
15 construed to modify, impair, or supersede the applicability
16 of any antitrust law.

17 ~~(b)~~ **FEDERAL, STATE, AND LOCAL LAW.**—~~(1)~~ Except
18 as provided in paragraph ~~(2)~~; this Act shall not be con-
19 strued to modify, impair, or supersede Federal, State, or
20 local law unless expressly so provided in this Act.

21 ~~(5)~~ This Act shall supersede State and local law to
22 the extent that such law would impair or prevent the oper-
23 ation of this Act.

1 **TITLE I—PROTECTION AND**
2 **ADVANCEMENT OF UNIVERSAL SERVICE**

3 **SEC. 101. NATIONAL POLICY GOALS.**

4 Section 1 of the Communications Act of 1934 (47
5 U.S.C. 151) is amended by inserting “(a)” immediately
6 before “For the purpose of” and by adding at the end
7 the following new subsection:

8 “(b) the primary objective of United States national
9 and international communications policy shall be to pro-
10 tect the public interest. The goals of United States na-
11 tional and international communications policy shall in-
12 clude the following:

13 “(1) To ensure that every person has access to
14 basic telecommunications at reasonable charges.

15 “(2) To promote the development and wide-
16 spread availability of new technologies.

17 “(3) To ensure that consumers have access to
18 diverse sources of information.

19 “(4) To allow each individual the opportunity to
20 contribute to the free flow of ideas and information
21 through telecommunications services.

22 “(5) To maximize the contribution of commu-
23 nications and information technologies and services
24 to economic welfare and quality of life.

1 “(6) To protect each individual’s right to con-
2 trol the use of information concerning his or her use
3 of telecommunications services.

4 “(7) To promote democracy.”.

5 **SEC. 102. UNIVERSAL SERVICE PROTECTION AND AD-**
6 **VANCEMENT.**

7 (a) **IN GENERAL.**—Title II of the Communications
8 Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding
9 immediately after section 201 the following new section:

10 ***SEC. 201A. UNIVERSAL SERVICE PROTECTION AND AD-**
11 **VANCEMENT.**

12 “(a) **DUTY TO CONTRIBUTE.**—It shall be the duty of
13 every common carrier engaged in intrastate, interstate, or
14 foreign communication by wire or radio to contribute to
15 the preservation and advancement of universal service.
16 Such contributions can include monetary payment, certain
17 service obligations, in-kind payment, or other forms of
18 contribution as determined by the Commission and any
19 State as set forth in subsections (b) and (c).

20 “(b) **RESPONSIBILITIES OF THE COMMISSION.**—(1)
21 Within one year after the date of enactment of this sec-
22 tion, the Commission, after receiving comment from the
23 States, shall set forth minimum guidelines for the defini-
24 tion of universal service. Such guidelines shall ensure
25 that—

1 “(A) universal service includes no less than
2 voice grade telephone exchange services at a charge
3 that includes no more than a reasonable share of the
4 joint and common costs of facilities used to provide
5 such services; and

6 “(B) any other service that utilizes such facilities shall bear a reasonable share of such costs.

8 The Commission shall periodically revise such guidelines.

9 “(2) Within two years after the date of enactment
10 of this section, the Commission shall prescribe and imple-
11 ment regulations to provide that a charge be collected, or
12 other action be taken, to ensure that providers of inter-
13 state telecommunications make a contribution to the pro-
14 tection and advancement of universal service on a competi-
15 tively neutral basis. Any funds contributed under this sec-
16 tion shall be distributed to each State.

17 “(c) PRIMARY RESPONSIBILITY.—(1) The Commis-
18 sion shall delegate to each State the primary responsibility
19 for defining universal service and ensuring that universal
20 service goals are met. Each State may impose a non-
21 discriminatory charge on intrastate telecommunications,
22 or take other action, as the State finds necessary to pro-
23 tect and advance universal service.

24 “(2) In considering methods of protecting and ad-
25 vancing universal service, the State may consider assisting

1 directly telecommunications carriers, assisting directly in-
2 dividuals and entities who cannot afford the cost of certain
3 telecommunications services; assisting directly individuals
4 or entities in purchasing or leasing equipment or program-
5 ming; allowing carriers to compete for the right to obtain
6 funding in exchange for providing certain services; and
7 other options. To the extent that a State establishes a
8 fund to support universal service; all provider of tele-
9 communications services shall be eligible to receive pay-
10 ment from such fund.

11 “(3) If a State has not implemented procedures to
12 carry out the objectives of paragraphs (1) and (2) within
13 two years after the date of enactment of this section; or
14 at any time thereafter fails to meet the objectives of such
15 paragraphs; the Commission shall assume the primary re-
16 sponsibility to ensure that those objectives are met.”

17 (b) CONFORMING AMENDMENT.—Section
18 332(c)(1)(A) of the Communications Act of 1934 (47
19 U.S.C. 332(c)(1)(A)) is amended by inserting “201A,”
20 immediately after “section 201.”

21 **SEC. 103. PUBLIC ACCESS.**

22 (a) AMENDMENT.—Section 202 of the Communica-
23 tions Act of 1934 (47 U.S.C. 202) is amended by adding
24 at the end the following new subsection:

1 “(d)(1) Notwithstanding subsections (a) through (c),
2 it shall be the duty of all telecommunications carriers that
3 use public rights of way to permit educational institutions,
4 health-care institutions, local and State governments, pub-
5 lic broadcast stations, public libraries, other public enti-
6 ties, community newspapers, and broadcasters in the
7 smallest markets to obtain access to intrastate and inter-
8 state services provided by such carriers at preferential
9 rates. Entities that obtain services under this provision
10 may not resell such services, except to other entities that
11 are eligible for preferential rates under this subsection.

12 “(2) Within one year after the date of enactment of
13 this subsection, the Commission shall prescribe regulations
14 to enforce the provisions of this subsection.”

15 (b) **RULEMAKING ON ADVANCED TELECOMMUNI-**
16 **CATIONS SERVICES.**—The Commission shall commence a
17 rulemaking proceeding for the purpose of prescribing reg-
18 ulations that—

19 (1) enhance, to the extent feasible, the availabil-
20 ity of advanced telecommunications services to all
21 public elementary and secondary school classrooms,
22 health care institutions, and libraries; and

23 (2) ensure that appropriate functional require-
24 ments or performance standards, or both, including
25 interoperability standards, are established for tele-

1 communications arrangements that interconnect
2 educational institutions, health care institutions, and
3 libraries with the public switched network.

4 **TITLE II—TELECOMMUNICATIONS**
5 **INVESTMENT**

6 **SEC. 201. INFRASTRUCTURE INVESTMENT.**

7 Title II of the Communications Act of 1934 (47
8 U.S.C. 201 et seq.), as amended by this Act, is further
9 amended by adding at the end the following new section:

10 **“SEC. 220. INFRASTRUCTURE INVESTMENT.**

11 **“(a) RURAL MARKETS AND NONCOMPETITIVE MAR-**
12 **RETS.—**If State regulatory authorities fail to achieve the
13 goal of ensuring that telecommunications carriers provide
14 consumers in rural markets and noncompetitive markets
15 with access to high quality, interoperable telecommuni-
16 cations network facilities and capabilities which—

17 **“(1) provide subscribers with sufficient inter-**
18 **active bi-directional network capacity to allow access**
19 **to information services that provide a combination of**
20 **voice, data, image, and video; and**

21 **“(2) are widely available at reasonable non-**
22 **discriminatory rates that are based on reasonably**
23 **identifiable costs of providing such services;**

24 then the Commission may take any action necessary to
25 achieve that goal.

1 “(b) **FULL EFFECTUATION.**—The Commission shall
2 have the authority to preempt any State or local statute
3 or regulation, or other State or local legal requirement,
4 that prevents the full effectuation of the goal embodied
5 in subsection (a).

6 “(c) **STATE REGULATORY INCENTIVES.**—The States
7 are encouraged to implement regulatory incentives to pro-
8 mote the development of high quality telecommunications
9 network facilities and capabilities. If regulatory incentives
10 fail to result in the deployment of high quality tele-
11 communications network facilities and capabilities in rural
12 markets and noncompetitive markets, the States may
13 adopt other methods to ensure that the goal of subsection
14 (a) is achieved.

15 “(d) **NETWORK STANDARDS AND PLANNING.**—

16 “(1) **NETWORK STANDARDS.**—

17 “(A) **INTERCONNECTION AND INTEROPER-**
18 **ABILITY STANDARDS.**—The Commission shall
19 encourage telecommunications carriers and tele-
20 communications equipment manufacturers to
21 develop standards to ensure interconnection and
22 interoperability of telecommunications net-
23 works.

24 “(B) **INDUSTRY ASSISTANCE.**—The Com-
25 mission shall, when necessary, establish dead-

1 lines, create incentives, or use other mecha-
2 nisms to assist the industry to develop and im-
3 plement such standards.

4 ~~“(C) COMMISSION AUTHORITY TO ESTAB-~~
5 ~~LISH STANDARDS.—~~The Commission may es-
6 tablish standards when industry participants
7 fail to reach agreement.

8 ~~“(2) NETWORK PLANNING.—~~

9 ~~“(A) REGULATIONS ON JOINT COORDI-~~
10 ~~NATED ACTION.—~~The Commission shall pre-
11 scribe regulations that permit joint coordinated
12 network planning, design, and cooperative im-
13 plementation among all telecommunications car-
14 riers in the provision of public switched network
15 infrastructure and services.

16 ~~“(B) PROCEDURES.—~~The Commission
17 shall prescribe regulations establishing proce-
18 dures to ensure that—

19 ~~“(i) telecommunications carriers shall~~
20 ~~make available timely information to other~~
21 ~~such carriers and information service pro-~~
22 ~~viders in the same geographic area about~~
23 ~~the deployment of telecommunications~~
24 ~~equipment, including software integral to~~
25 ~~such telecommunications equipment, in-~~

1 including upgrades, that will affect a tele-
2 communications carrier's or information
3 service provider's ability to interconnect or
4 interoperate in the same geographic area;

5 "(ii) telecommunications carriers shall
6 not be required to share information re-
7 quired under clause (i) with anyone, in-
8 cluding carriers with whom they directly
9 compete, except as may be necessary to
10 meet the interconnection and interoper-
11 ability requirements set forth in this para-
12 graph; and

13 "(iii) the recipient of any information
14 described in clause (i) shall use it only for
15 its own interconnection and interoper-
16 ability.

17 **"(3) INFRASTRUCTURE SHARING ARRANGE-**
18 **MENTS BETWEEN OR AMONG TELECOMMUNICATIONS**
19 **CARRIERS.—**

20 **"(A) REGULATIONS REQUIRED.—**The
21 Commission shall prescribe regulations that re-
22 quire a local exchange carrier to share public
23 switched network infrastructure and function
24 with requesting telecommunications carriers

1 lacking economies of scale or scope, as defined
2 in subparagraph (B):

3 “(B) DEFINITION.—For the purposes of
4 this paragraph, the term ‘telecommunications
5 carrier lacking economies of scale or scope’
6 means any telecommunications carrier which
7 serves a geographic area for which it lacks
8 economies of scale or scope for the particular
9 required network function.

10 “(C) CONTENTS OF REGULATIONS.—The
11 regulations governing such sharing between
12 local exchange carriers and telecommunications
13 carriers shall—

14 “(i) promote economically efficient de-
15 cisionmaking by local exchange carriers
16 and telecommunications carriers lacking
17 economies of scale or scope;

18 “(ii) not require any local exchange
19 carrier or telecommunications carrier lack-
20 ing economies of scale or scope to make
21 any decision that is uneconomic or adverse
22 to the public interest;

23 “(iii) permit, but not require, joint
24 ownership and operation of public switched
25 network infrastructure and services by

1 local exchange carriers and telecommuni-
2 cations carriers lacking economies of scale
3 or scope;

4 “(iv) ensure that fair and reasonable
5 terms and conditions for and in connection
6 with the business arrangement described in
7 this paragraph are determined by local ex-
8 change carriers and telecommunications
9 carriers lacking economies of scale or scope
10 in accordance with general guidelines con-
11 tained in the regulations prescribed pursu-
12 ant to this paragraph:

13 “(v) establish conditions that promote
14 cooperation between local exchange carriers
15 and telecommunications carriers lacking
16 economies of scale or scope; and

17 “(vi) ensure that all regulation rights
18 and obligations for and in connection with
19 the business arrangements described in
20 this paragraph shall be determined exclu-
21 sively in accordance with the regulations
22 prescribed pursuant to his paragraph:

23 “(4) **DISABILITY ACCESS.**—The Commission
24 and the States shall ensure that advances in network
25 capabilities and telecommunications service deployed

1 by telecommunications carriers are designed to be ac-
2 cessible to individuals with disabilities.

3 **“(e) ANNUAL SURVEY.—**The Commission shall pub-
4 lish annually a survey of the deployment of technologies
5 on a State-by-State basis.

6 **“(f) COST ALLOCATION REGULATIONS.—**The Com-
7 mission shall develop regulations, consistent with the need
8 to protect universal service to allocate a local exchange
9 carrier’s costs of deploying of broadband telecommuni-
10 cations facilities between local exchange service and com-
11 petitive services.”

12 **TITLE III—REGULATORY REFORM**

13 **SEC. 301. DEFINITIONS.**

14 Section 3 of the Communications Act of 1934 (49
15 U.S.C. 153) is amended by adding at the end the following
16 new subsections:

17 **“(hh) ‘Local exchange carrier’** means a provider of
18 telephone exchange service that the Commission deter-
19 mines that market power.

20 **“(ii) ‘Telecommunications’** means the transmission,
21 between or among points specified by the user, or informa-
22 tion of the user’s choosing, without change in the reform
23 or content of the information as sent and received, by
24 means of electromagnetic transmission, with or without
25 benefit of any closed transmission medium, including all

1 instrumentalities facilities, apparatus, and services (in-
 2 cluding the receipt, switching, and delivery of such infor-
 3 mation) essential to such transmission.

4 “(j) ‘Telecommunications service’ means the offering
 5 for profit to the public or to such classes and eligible users
 6 as to be effectively available to a substantial portion of
 7 the public of—

8 “(1) telecommunications facilities that (A) are
 9 owned or controlled by a provider of telephone ex-
 10 change service or (B) interconnect with the network
 11 of a provider of telephone exchange service; or

12 “(2) telecommunications by means of such tele-
 13 communications facilities.

14 Such term does not include information services.

15 “(k) ‘Telecommunications carrier’ means any pro-
 16 vider of telecommunications services, except that such
 17 term does not include hotels, motels, hospitals, and other
 18 aggregators of telecommunications services as defined in
 19 section 226.

20 “(l) ‘Telecommunications number portability’ means
 21 the ability of users of telecommunications services to re-
 22 tain existing telecommunications numbers without impair-
 23 ment of quality, reliability, or convenience when switching
 24 from one telecommunications carrier to another.

1 “(mm) ‘Information service’ means the offering of
2 services over common carrier transmission facilities which
3 employ computer processing applications that act on the
4 format, content, code, protocol or similar aspects of the
5 subscriber’s transmitted information, provide the sub-
6 scriber additional, different, or restructured information,
7 or involve subscriber interaction with stored information.

8 “(nn) ‘Bell operating company’ means any of the
9 companies listed in appendix A of the Modification of
10 Final Judgment, and includes any successor or assign of
11 any such company, but does not include any affiliate of
12 any such company.

13 “(oo) ‘Modification of Final Judgment’ means the de-
14 crece entered August 24, 1982, in *United States v. Western*
15 *Electric*, Civil Action No. 82-0102 (United States District
16 Court, District of Columbia).”.

17 **SEC. 302. REGULATORY REFORM.**

18 Title II of the Communications Act of 1934 (47
19 U.S.C. 201 et seq.); as amended by this Act, is further
20 amended by adding at the end the following new section:

21 **“SEC. 230. TELECOMMUNICATIONS COMPETITION.**

22 “(a) **REMOVAL OF BARRIERS TO ENTRY.**—Subject to
23 the provisions of section 301 of this Act, at such time as
24 the regulations required by section 201A of this Act have
25 been implemented, or 2 years after the date of enactment

1 of this section, whichever is earlier, no State or local stat-
2 ute or regulation, or other State or local legal requirement,
3 shall prohibit or have the effect of prohibiting the ability
4 of any entity to provide interstate or intrastate tele-
5 communications services. No State or local governmental
6 entity may unreasonably discriminate among tele-
7 communications carriers.

8 “(b) PROVISION OF TELECOMMUNICATIONS SERV-
9 ICES BY OTHER UTILITIES.—Notwithstanding any other
10 provision of law and subject to the regulatory safeguards
11 imposed by an appropriate regulatory agency, an electric,
12 gas, water, or steam utility may provide telecommuni-
13 cations services.

14 “(c) REGULATORY AUTHORITY.—Nothing in this sec-
15 tion shall affect the ability of State or local officials to
16 impose, on a competitively neutral basis, requirements
17 necessary to preserve and advance universal service, pro-
18 tect the public safety and welfare, ensure the continued
19 quality of telecommunications services, and safeguard the
20 rights of consumers.

21 “(d) OBLIGATIONS OF TELECOMMUNICATIONS CAR-
22 RIERS.—To the extent that they provide telecommuni-
23 cations services, telecommunications carriers shall be
24 deemed common carriers under this Act. The Commission
25 shall prescribe regulations to require each telecommuni-

1 cations carrier, upon bona fide request, to provide to any
2 telecommunications equipment manufacturer or any entity
3 seeking to provide telecommunications services or informa-
4 tion services, on reasonable terms and conditions—

5 “(1) interconnection to the carrier’s tele-
6 communications facilities at any technically and eco-
7 nomically feasible point within the carrier’s network;

8 “(2) nondiscriminatory access to any of the ear-
9 rier’s telecommunications facilities and information
10 necessary to the transmission and routing of any
11 telecommunications service or information service
12 and the interoperability of both carriers’ networks;

13 “(3) nondiscriminatory access, where technically
14 and economically feasible, to the poles, ducts, con-
15 duits, and rights of way owned or controlled by the
16 carrier, and nondiscriminatory rates for such access;

17 “(4) nondiscriminatory access to the network
18 functions of the carrier’s telecommunications net-
19 work, which shall be offered on an unbundled basis;
20 and

21 “(5) telecommunications services and network
22 functions without any restrictions on the resale or
23 sharing of those services and functions.

24 The States may prescribe regulations implementing para-
25 graphs (1) through (5) for intrastate services so long as

1 such regulations are not inconsistent with those prescribed
2 by the Commission.

3 **“(e) CONSUMER INFORMATION.—**As competition for
4 telecommunications services develops, the Commission and
5 State regulatory authorities shall take action to ensure
6 that consumers are given the information necessary to
7 make informed choices among their telecommunications
8 alternatives.

9 **“(f) TELECOMMUNICATIONS NUMBER PORT-**
10 **ABILITY.—**The Commission shall prescribe regulations to
11 ensure that—

12 **“(1) telecommunications number portability**
13 **shall be available, upon request, as soon as tech-**
14 **nically feasible; and**

15 **“(2) an impartial entity shall administer tele-**
16 **communications numbering and make such numbers**
17 **available on an equitable basis.**

18 **“(g) RECIPROCAL COMPENSATION AGREEMENTS.—**
19 **Telecommunications carriers shall compensate each other**
20 **on a reciprocal and equivalent basis for termination of**
21 **telecommunications services on each other’s networks.**

22 **“(h) REGULATORY FLEXIBILITY FOR COMPETITIVE**
23 **SERVICES.—**

24 **“(1) REGULATORY FLEXIBILITY.—**In the event
25 **that a telecommunications carrier does not have**

1 market power in any or some of its telecommuni-
2 cations services in any or some of its geographic
3 markets, the Commission may streamline any regu-
4 lation or forbear from applying any provision of this
5 title (except for sections 201, 201A, 202, and 208)
6 to such a telecommunications carrier or service only
7 if the Commission determines that—

8 “(A) full application of such regulation or
9 provision is unnecessary in order to ensure that
10 the charges, practices, classifications, or regula-
11 tions for or in connection with that service are
12 just and reasonable and are not unjustly or un-
13 reasonably discriminatory;

14 “(B) full application of such regulation or
15 provision is unnecessary to achieve the goals of
16 this Act; and

17 “(C) such action is consistent with the
18 public interest and the protection of consumers.
19 Any finding by the Commission under section 332
20 that a provision of title II is inapplicable to a com-
21 mercial mobile service or a provider of commercial
22 mobile services shall be deemed also to be a deter-
23 mination under this paragraph that the require-
24 ments of subparagraphs (A), (B), and (C) of this
25 paragraph are satisfied.

1 “(2) **PRICING FLEXIBILITY.**—The Commission
2 shall and the States are encouraged to permit tele-
3 communications carriers to have pricing flexibility in
4 service or geographic markets that are found to be
5 competitive. In implementing this subsection, the
6 Commission and the States shall ensure that rates
7 for basic telephone service and for services that are
8 not competitive remain just and reasonable and that
9 universal service is preserved and advanced.

10 “(1) **RULES FOR FOREIGN OWNERSHIP.**—The provi-
11 sions of section 210(b) shall not apply to any lawful for-
12 eign ownership in a telecommunications carrier prior to
13 February 1, 1994, if that carrier was not regulated as a
14 common carrier prior to the date of enactment of this sec-
15 tion and is deemed to be a common carrier under this
16 Act.”

17 **SEC. 203. IMPLEMENTING REGULATIONS.**

18 The Commission shall, within 12 months after the
19 date of enactment of this Act, issue regulations to imple-
20 ment this title. Such regulations shall take effect within
21 6 months after their issuance, except that the Commission
22 may extend such effective date for up to 24 additional
23 months for any small carrier providing telecommuni-
24 cations service in rural areas, upon a showing by the car-

1 rier that compliance would not be technically and economi-
2 cally feasible without additional time.

3 **TITLE IV—AUTHORIZED ACTIVITIES OF**
4 **BELL OPERATING COMPANIES**

5 **Subtitle A—Telecommunications Equipment**
6 **Research and Manufacturing Competition**

7 **SEC. 401. SHORT TITLE.**

8 This subtitle may be cited as the “Telecommuni-
9 cations Equipment Research and Manufacturing Competi-
10 tion Act of 1994”.

11 **SEC. 402. FINDINGS.**

12 The Congress finds that the continued economic
13 growth and the international competitiveness of American
14 industry would be assisted by permitting the Bell operat-
15 ing companies, through their affiliates, to manufacture
16 (including design, development, and fabrication) tele-
17 communications equipment and customer premises equip-
18 ment, and to engage in research with respect to such
19 equipment.

20 **SEC. 403. AMENDMENT TO COMMUNICATIONS ACT OF 1934.**

21 Title II of the Communications Act of 1934 (47
22 U.S.C. 201 et seq.), as amended by this Act, is further
23 amended by adding at the end the following new section:

1 **"SEC. 231. REGULATION OF MANUFACTURING BY BELL OP-**
2 **ERATING COMPANIES.**

3 **"(a) AUTHORIZATION.—**Subject to the requirements
4 of this section and the regulations prescribed thereunder,
5 a Bell operating company, through an affiliate of that
6 company, notwithstanding any restrictions or obligation
7 imposed before the date of enactment of this section pur-
8 suant to the Modification of Final Judgment on the lines
9 of business in which a Bell operating company may en-
10 gage, may manufacture and provide telecommunications
11 equipment and manufacture customer premises equip-
12 ment, except that neither a Bell operating company nor
13 any of its affiliates may engage in such manufacturing in
14 conjunction with a Bell operating company not so affili-
15 ated or any of its affiliates.

16 **"(b) REQUIREMENT FOR SEPARATE AFFILIATE.—**
17 Any manufacturing or provision authorized under sub-
18 section (a) shall be conducted only through an affiliate
19 (hereafter in this section referred to as a 'manufacturing
20 affiliate') that is separate from any Bell operating com-
21 pany.

22 **"(c) MANUFACTURING REGULATIONS.—**The Com-
23 mission shall prescribe regulations to ensure tha.—

24 **"(1)(A)** such manufacturing affiliate shall
25 maintain books, records, and accounts separate from
26 its affiliated Bell operating company, that identify

1 all transactions between the manufacturing affiliate
2 and its affiliated Bell operating company;

3 ~~“(B) the Commission and the State commis-~~
4 ~~sions that exercise regulatory authority over any Bell~~
5 ~~operating company affiliated with such manufactur-~~
6 ~~ing affiliate shall have access to the books, records,~~
7 ~~and accounts required to be prepared under sub-~~
8 ~~paragraph (A); and~~

9 ~~“(C) such manufacturing affiliate shall, even if~~
10 ~~it is not a publicly held corporation, prepare finan-~~
11 ~~cial statements which are in compliance with Federal~~
12 ~~financial reporting requirements for publicly held~~
13 ~~corporations; file such statements with the Commis-~~
14 ~~sion and the State commissions that exercise regu-~~
15 ~~latory authority over any Bell operating company af-~~
16 ~~filiated with such manufacturing affiliate; and make~~
17 ~~such statements available for public inspection;~~

18 ~~“(2) consistent with the provisions of this sec-~~
19 ~~tion, neither a Bell operating company nor any of its~~
20 ~~nonmanufacturing affiliates shall perform ser-ices, ad-~~
21 ~~vertising, installation, production, or maintenance~~
22 ~~operations for a manufacturing affiliate; except that~~
23 ~~institutional advertising, of a type not related to spe-~~
24 ~~cific telecommunications equipment, carried out by~~

1 the Bell operating company or its affiliates shall be
2 permitted if each party pays its pro rata share;

3 ~~“(3)(A)~~ such manufacturing affiliate shall con-
4 duct all of its manufacturing within the United
5 States and, except as otherwise provided in this
6 paragraph, all component parts of customer prem-
7 ises equipment manufactured by such affiliate, and
8 all component parts of telecommunications equip-
9 ment manufactured by such affiliate, shall have been
10 manufactured within the United States;

11 ~~“(B)~~ such affiliate may use component parts
12 manufactured outside the United States if—

13 ~~“(i)~~ such affiliate first makes a good faith
14 effort to obtain equivalent component parts
15 manufactured within the United States at rea-
16 sonable prices, terms, and conditions; and

17 ~~“(ii)~~ for the aggregate of telecommuni-
18 cations equipment and customer premises
19 equipment manufactured and sold in the United
20 States by such affiliate in any calendar year,
21 the cost of the components manufactured out-
22 side the United States contained in the equip-
23 ment does not exceed 40 percent of the sales
24 revenue derived from such equipment;

1 “(C) any such affiliate that uses component
2 parts manufactured outside the United States in the
3 manufacture of telecommunications equipment and
4 customer premises equipment within the United
5 States shall—

6 “(i) certify to the Commission that a good
7 faith effort was made to obtain equivalent parts
8 manufactured within the United States at rea-
9 sonable prices, terms, and conditions, which
10 certification shall be filed on a quarterly basis
11 with the Commission and list component parts,
12 by type, manufactured outside the United
13 States; and

14 “(ii) certify to the Commission on an an-
15 nual basis that for the aggregate of tele-
16 communications equipment and customer prem-
17 ises equipment manufactured and sold in the
18 United States by such affiliate in the previous
19 calendar year, the cost of the components man-
20 ufactured outside the United States contained
21 in such equipment did not exceed the percent-
22 age specified in subparagraph (B)(ii) or ad-
23 justed in accordance with subparagraph (C);

24 “(D)(i) if the Commission determines, after re-
25 viewing the certification required in subparagraph

1 (C)(i); that such affiliate failed to make the good
2 faith effort required in subparagraph (B)(i) or, after
3 reviewing the certification required in subparagraph
4 (C)(ii); that such affiliate has exceeded the percent-
5 age specified in subparagraph (B)(ii); the Commis-
6 sion may impose penalties or forfeitures as provided
7 for in title V of this Act; and

8 “(ii) any supplier claiming to be damaged be-
9 cause a manufacturing affiliate failed to make the
10 good faith effort required in subparagraph (B)(i)
11 may make complaint to the Commission as provided
12 for in section 208 of this Act; or may bring suit for
13 the recovery of actual damages for which such sup-
14 plier claims such affiliate may be liable under the
15 provisions of this Act in any district court of the
16 United States of competent jurisdiction;

17 “(E) the Commission, in consultation with the
18 Secretary of Commerce, shall, on an annual basis,
19 determine the cost of component parts manufactured
20 outside the United States contained in all tele-
21 communications equipment and customer premises
22 equipment sold in the United States as a percentage
23 of the revenues from sales of such equipment in the
24 previous calendar year;

1 “(F) a manufacturing affiliate may use intellec-
2 tual property created outside the United States in
3 the manufacture of telecommunications equipment
4 and customer premises equipment in the United
5 States; and

6 “(G) the Commission may not waive or alter
7 the requirements of this subsection, except that the
8 Commission, on an annual basis, shall adjust the
9 percentage specified in subparagraph (B)(ii) to the
10 percentage determined by the Commission, in con-
11 sultation with the Secretary of Commerce, as di-
12 rected in subparagraph (E);

13 “(4) no more than 90 percent of the equity of
14 such manufacturing affiliate shall be owned by its
15 affiliated Bell operating company and any affiliates
16 of that Bell operating company;

17 “(5) any debt incurred by such manufacturing
18 affiliate may not be issued by its affiliates, and such
19 manufacturing affiliate shall be prohibited from in-
20 curring debt in a manner that would permit a credi-
21 tor, on default, to have recourse to the assets of its
22 affiliated Bell operating company's telecommuni-
23 cations service business;

1 ~~“(6) such manufacturing affiliate shall not be~~
2 ~~required to operate separately from the other affili-~~
3 ~~ates of its affiliated Bell operating company;~~

4 ~~“(7) if an affiliate of a Bell operating company~~
5 ~~becomes affiliated with a manufacturing entity, such~~
6 ~~affiliate shall be treated as a manufacturing affiliate~~
7 ~~of that Bell operating company within the meaning~~
8 ~~of subsection (b) and shall comply with the require-~~
9 ~~ments of this section;~~

10 ~~“(8) such manufacturing affiliate shall make~~
11 ~~available, without discrimination or self-preference~~
12 ~~as to price, delivery, terms, or conditions, to all reg-~~
13 ~~ulated local telephone exchange carriers, for use with~~
14 ~~the public telecommunications network, any tele-~~
15 ~~communications equipment, including software inte-~~
16 ~~gral to such telecommunications equipment, includ-~~
17 ~~ing upgrades, manufactured by such affiliate so long~~
18 ~~as each such purchasing carrier—~~

19 ~~“(A) does not either manufacture tele-~~
20 ~~communications equipment, or have a manufac-~~
21 ~~turing affiliate which manufactures tele-~~
22 ~~communications equipment; or~~

23 ~~“(B) agrees to make available, to the Bell~~
24 ~~operating company affiliated with such manu-~~
25 ~~facturing affiliate or any of the requested local~~

1 exchange telephone carrier affiliates of such
2 Bell company, any telecommunications equip-
3 ment, including software integral to such tele-
4 communications equipment, including upgrades,
5 manufactured for use with the public tele-
6 communications network by such purchasing
7 carrier or by any entity or organization with
8 which such purchasing carrier is affiliated;

9 ~~“(D)(A)~~ such manufacturing affiliate shall not
10 discontinue or restrict sales to other regulated local
11 telephone exchange carriers of any telecommuni-
12 cations equipment, including software integral to
13 such telecommunications equipment, including up-
14 grades; that such affiliate manufactures for sale as
15 long as there is reasonable demand for the equip-
16 ment by such carriers, except that such sales may be
17 discontinued or restricted if such manufacturing af-
18 filiate demonstrates to the Commission that it is not
19 making a profit, under a marginal cost standard im-
20 plemented by the Commission, on the sale of such
21 equipment;

22 ~~“(B)~~ in reaching a determination as to the ex-
23 istence of reasonable demand as referred to in sub-
24 paragraph (A), the Commission shall within 60 days
25 consider—

1 “(i) whether the continued manufacture of
2 the equipment will be profitable;

3 “(ii) whether the equipment is functionally
4 or technologically obsolete;

5 “(iii) whether the components necessary to
6 manufacture the equipment continue to be
7 available;

8 “(iv) whether alternatives to the equipment
9 are available in the market; and

10 “(v) such other factors as the Commission
11 deems necessary and proper;

12 “(10) Bell operating companies shall, consistent
13 with the antitrust laws, engage in joint network
14 planning and design with other regulated local tele-
15 phone exchange carriers operating in the same area
16 of interest; except that no participant in such plan-
17 ning shall delay the introduction of new technology
18 or the deployment of facilities to provide tele-
19 communications services; and agreement with such
20 other carriers shall not be required as a prerequisite
21 for such introduction or deployment; and

22 “(11) Bell operating companies shall provide, to
23 other regulated local telephone exchange carriers op-
24 erating in the same area of interest, timely informa-
25 tion on the planned deployment of telecommuni-

1 cations equipment, including software integral to
2 such telecommunications equipment, including up-
3 grades.

4 “(d) TELEPHONE EXCHANGE SERVICE REGULA-
5 TIONS.—

6 “(1) IN GENERAL.—The Commission shall pre-
7 scribe regulations to require that each Bell operating
8 company shall maintain and file with the Commis-
9 sion full and complete information with respect to
10 the protocols and technical requirements for connec-
11 tion with and use of its telephone exchange service
12 facilities. Such regulations shall require each such
13 Bell company to report promptly to the Commission
14 any material changes or planned changes to such
15 protocols and requirements, and the schedule for im-
16 plementation of such changes or planned changes.

17 “(2) DISCLOSURE RESTRICTION.—A Bell oper-
18 ating company shall not disclose to any of its affili-
19 ates any information required to be filed under para-
20 graph (1) unless that information is immediately so
21 filed.

22 “(3) COMPETITORS’ ACCESS TO INFORMA-
23 TION.—The Commission may prescribe such addi-
24 tional regulations under this subsection as may be
25 necessary to ensure that manufacturers in competi-

1 tion with a Bell operating company's manufacturing
 2 affiliate have ready and equal access to the informa-
 3 tion required for such competition that such Bell
 4 company makes available to its manufacturing affili-
 5 ate.

6 ~~“(e) REQUIREMENTS FOR BELL OPERATING COMPA-~~
 7 ~~NIES WITH MANUFACTURING AFFILIATE.—~~The Commis-
 8 sion shall prescribe regulations requiring that any Bell op-
 9 erating company which has an affiliate that engages in
 10 any manufacturing authorized by subsection (a) shall—

11 “(1) provide, to other manufacturers of tele-
 12 communications equipment and customer premises
 13 equipment, opportunities to sell such equipment to
 14 such Bell operating company which are comparable
 15 to the opportunities which such company provides to
 16 its affiliates;

17 “(2) not subsidize its manufacturing affiliate
 18 with revenues from its regulated telecommunications
 19 services; and

20 “(3) only purchase equipment from its manu-
 21 facturing affiliate at the open market price.

22 ~~“(f) COLLABORATION WITH OTHER MANUFACTUR-~~
 23 ~~ERS.—~~A Bell operating company and its affiliates may en-
 24 gage in close collaboration with any manufacturer of cus-
 25 tomer premises equipment or telecommunications equip-

1 ment during the design and development of hardware;
2 software, or combinations thereof relating to such equip-
3 ment, consistent with subsection (e)(2).

4 **“(g) ADDITIONAL RULES AND REGULATIONS.—**The
5 Commission may prescribe such additional rules and regu-
6 lations as the Commission determines necessary to carry
7 out the provisions of this section.

8 **“(h) ADMINISTRATION AND ENFORCEMENT.—**

9 **“(1) COMMISSION AUTHORITY.—**For the pur-
10 poses of administering and enforcing the provisions
11 of this section and the regulations prescribed there-
12 under, the Commission shall have the same author-
13 ity, power, and functions with respect to any Bell
14 operating company as the Commission has in admin-
15 istering and enforcing the provisions of this title
16 with respect to any common carrier subject to this
17 Act.

18 **“(2) CIVIL ACTIONS BY INJURED CARRIERS.—**
19 Any regulated local telephone exchange carrier in-
20 jured by an act or omission of a Bell operating com-
21 pany or its manufacturing affiliate which violates the
22 requirements of paragraph (8) or (9) of subsection
23 (e), or the Commission’s regulations implementing
24 such paragraphs, may initiate an action in a district
25 court of the United States to recover the full amount

1 of damages sustained in consequence of any such
2 violation and obtain such orders from the court as
3 are necessary to terminate existing violations and to
4 prevent future violations; or such regulated local
5 telephone exchange carrier may seek relief from the
6 Commission pursuant to sections 206 through 209.

7 **“(i) EFFECTIVE DATE; DEADLINE.—**The authority
8 of the Commission to prescribe regulations to carry out
9 this section is effective on the date of enactment of this
10 section. The Commission shall prescribe such regulations
11 within 180 days after such date of enactment, and the
12 authority to engage in the manufacturing authorized in
13 subsection (a) shall not take effect until regulations pre-
14 scribed by the Commission under subsections (c), (d), and
15 (e) are in effect.

16 **“(j) EFFECT ON PREEXISTING MANUFACTURING AU-**
17 **THORITY.—**Nothing in this section shall prohibit any Bell
18 operating company from engaging, directly or through any
19 affiliate, in any manufacturing activity in which any Bell
20 operating company or affiliate was authorized to engage
21 on the date of enactment of this section.

22 **“(k) ANNUAL AUDIT.—**

23 **“(1) IN GENERAL.—**A Bell operating company
24 that manufactures or provides telecommunications
25 equipment or manufactures customer premises

1 equipment through an affiliate shall obtain and pay
2 for an annual audit conducted by an independent
3 auditor selected by and working at the direction of
4 the State commission of each State in which such
5 Bell company provides local exchange service, to de-
6 termine whether such Bell company has complied
7 with this section and the regulations promulgated
8 under this section, and particularly whether such
9 Bell company has complied with the separate ac-
10 counting requirements under subsection (c)(1).

11 ~~“(2) SUBMISSION OF AUDIT RESULTS.—~~The
12 auditor described in paragraph (1) shall submit the
13 results of such audit to the Commission and to the
14 State commission of each State in which such Bell
15 company provides telephone exchange service. Any
16 party may submit comments on the final audit re-
17 port.

18 ~~“(3) PROCEDURES APPLICABLE TO AUDIT.—~~
19 The audit required under paragraph (1) shall be
20 conducted in accordance with procedures established
21 by regulation by the State commission of the State
22 in which such Bell company provides local exchange
23 service, including requirements that—

1 “(A) the independent auditors performing
2 such audits are rotated to ensure their inde-
3 pendence; and

4 “(B) each audit submitted to the Commis-
5 sion and to the State commission is certified by
6 the auditor responsible for conducting the
7 audit.

8 “(4) COMMISSION REVIEW.—The Commission
9 shall periodically review and analyze the audits sub-
10 mitted to it under this subsection; and shall provide
11 to the Congress every 2 years—

12 “(A) a report of its findings on the compli-
13 ance of the Bell operating companies with this
14 section and the regulations promulgated there-
15 under; and

16 “(B) an analysis of the impact of such reg-
17 ulations on the affordability of local telephone
18 exchange service.

19 “(5) ACCESS TO ACCOUNTS AND RECORDS.—
20 For purposes of conducting audits and reviews
21 under this subsection; an independent auditor; the
22 Commission; and the State commission shall have
23 access to the financial accounts and records of each
24 Bell operating company and those of its affiliates
25 (including affiliates described in paragraphs (6) and

1 (7) of subsection (c)) necessary to verify trans-
2 actions conducted with such Bell operating company
3 that are relevant to the specific activities permitted
4 under this section and that are necessary to the
5 State's regulation of telephone rates. Each State
6 commission shall implement appropriate procedures
7 to ensure the protection of any proprietary informa-
8 tion submitted to it under this section.

9 “(1) DEFINITIONS.—As used in this section:

10 “(1) The term ‘affiliate’ means any organiza-
11 tion or entity that, directly or indirectly, owns or
12 controls; is owned or controlled by; or is under com-
13 mon ownership with a Bell operating company. Such
14 term includes any organization or entity (A) in
15 which a Bell operating company and any of its affili-
16 ates have an equity interest of greater than 10 per-
17 cent; or a management interest of greater than 10
18 percent; or (B) in which a Bell operating company
19 and any of its affiliates have any other significant fi-
20 nancial interest.

21 “(2) The term ‘Bell operating company’ means
22 those companies listed in appendix A of the Modi-
23 fication of Final Judgment; and includes any succes-
24 sor or assign of any such company; but does not in-
25 clude any affiliate of any such company.

1 “(3) The term ‘customer premises equipment’
2 means equipment employed on the premises of a
3 person (other than a carrier) to originate, route, or
4 terminate telecommunications.

5 “(4) The term ‘manufacturing’ has the same
6 meaning as such term has in the Modification of
7 Final Judgment as interpreted in *United States v.*
8 *Western Electric*, Civil Action No. 82-0102 (United
9 States District Court, District of Columbia) (filed
10 December 3, 1987).

11 “(5) The term ‘Modification of Final Judgment’ means the decree entered August 24, 1982, in
12 *United States v. Western Electric*, Civil Action No.
13 82-0102 (United States District Court, District of
14 Columbia).

15 “(6) The term ‘telecommunications’ means the
16 transmission, between or among points specified by
17 the user, of information of the user’s choosing, with-
18 out change in the form or content of the information
19 as sent and received, by means of an electromagnetic
20 transmission medium, including all instrumentalities,
21 facilities, apparatus, and services (including the col-
22 lection, storage, forwarding, switching, and delivery
23 of such information) essential to such transmission.
24

1 “(7) The term ‘telecommunications equipment’
2 means equipment, other than customer premises
3 equipment, used by a carrier to provide tele-
4 communications services.

5 “(8) The term ‘telecommunications service’
6 means the offering for hire of telecommunications
7 facilities, or of telecommunications by means of such
8 facilities.”

9 **SEC. 404. INCREASED PENALTY FOR RECORDKEEPING VIO-**
10 **LATIONS.**

11 Section 220(d) of the Communications Act of 1934
12 (47 U.S.C. 220(d)) is amended by striking “\$6,000” and
13 inserting in lieu thereof “\$16,000”.

14 **SEC. 406. APPLICATION OF ANTITRUST LAWS.**

15 Nothing in this subtitle shall be deemed to alter the
16 application of Federal and State antitrust laws as inter-
17 preted by the respective courts.

18 **Subtitle B—Regulation of Alarm Services and**
19 **Electronic Publishing by Bell Operating**
20 **Companies**

21 **SEC. 451. REGULATION OF ENTRY INTO ALARM MONITOR-**
22 **ING SERVICES.**

23 (a) **AMENDMENT.**—Title II of the Communications
24 Act of 1934 (47 U.S.C. 201 et seq.), as amended by this

1 Act, is further amended by adding at the end the following
2 new section:

3 **"SEC. 232. REGULATION OF ENTRY INTO ALARM MONITOR-**
4 **ING SERVICES.**

5 **"(a) IN GENERAL.—**Except as provided in subsection
6 (c), no Bell operating company, or any affiliate of that
7 company, shall provide alarm monitoring services for the
8 protection of life, safety, or property. A Bell operating
9 company may transport alarm monitoring service signals
10 but on a common carrier basis only.

11 **"(b) AUTHORITY TO PETITION.—**Beginning 5½
12 years from the date of enactment of this section, a Bell
13 operating company or any affiliate of that company may
14 petition the Commission to seek permission to provide
15 alarm monitoring services for the protection of life, safety,
16 or property.

17 **"(c) AUTHORITY TO PERMIT BELL OPERATING COM-**
18 **PANIES TO PROVIDE SERVICES.—**Beginning 6 years from
19 the date of enactment of this section, the Commission
20 shall have the authority to permit a Bell operating com-
21 pany to provide alarm monitoring services for the protec-
22 tion of life, safety, or property, except that the Commis-
23 sion shall not grant such permission until—

24 **"(1)** the Department of Justice finds that there
25 is no substantial possibility that such Bell company

1 or its affiliates could use monopoly power to impede
 2 competition in the market such Bell company seeks
 3 to enter; and

4 ~~“(2)~~ the Commission finds that the provision of
 5 alarm monitoring services by the Bell operating com-
 6 pany is in the public interest and that the Commis-
 7 sion has the capability to effectively enforce any re-
 8 quirements, limitations, or conditions placed upon
 9 the Bell operating company in the provision of alarm
 10 monitoring services for the protection of life, safety,
 11 or property, including the regulations it has pre-
 12 scribed pursuant to subsection (d).

13 ~~“(d) REGULATIONS REQUIRED.~~—Not later than 6
 14 years after the date of enactment of this section, the Com-
 15 mission shall prescribe regulations—

16 ~~“(1)~~ to establish such requirements, limitations,
 17 or conditions as are (A) necessary and appropriate
 18 in the public interest with respect to the provision of
 19 alarm monitoring services by Bell operating compa-
 20 nies and their affiliates; and (B) effective at such
 21 time as a Bell operating company or any of its affli-
 22 ates is authorized to provide alarm monitoring serv-
 23 ices;

24 ~~“(2)~~ to prohibit Bell operating companies and
 25 their affiliates, at that or any earlier time after the

1 date of enactment of this section, from recording in
2 any fashion the occurrence or the contents of calls
3 received by providers of alarm monitoring services
4 for the purposes of marketing such services on be-
5 half of the Bell operating company, any of its affili-
6 ates, or any other entity; and

7 ~~“(3)~~ to establish procedures for the receipt and
8 review of complaints concerning violations by such
9 companies of such regulations, or of any other provi-
10 sion of this Act or the regulations thereunder, that
11 result in material financial harm to a provider of
12 alarm monitoring services.

13 ~~“(e) EXPEDITED CONSIDERATION OF COM-~~
14 ~~PLAINTS.—~~The procedures established under subsection
15 ~~(d)(3)~~ shall ensure that the Commission will make a final
16 determination with respect to any complaint described in
17 such subsection within 120 days after receipt of the com-
18 plaint. If the complaint contains an appropriate showing
19 that the alleged violation occurred, as determined by the
20 Commission in accordance with such regulations, the Com-
21 mission shall, within 60 days after receipt of the com-
22 plaint, issue a cease and desist order to prevent the Bell
23 operating company and its affiliates from continuing to
24 engage in such violation pending such final determination.

1 ~~“(f) REMEDIES.—The Commission may use any rem-~~
 2 edy available under title V of this Act to terminate and
 3 punish violations described in subsection (d)(2). Such rem-
 4 edies may include, if the Commission determines that such
 5 violation was willful or repeated, ordering the Bell operat-
 6 ing company to cease offering alarm monitoring services.

7 ~~“(g) DEFINITIONS.—As used in this section:~~

8 ~~“(1) the term ‘alarm monitoring services’~~
 9 means services that detect threats to life, safety, or
 10 property, by burglary, fire, vandalism, bodily injury,
 11 or other emergency, through the use of devices that
 12 transmit signals to a central point in a customer’s
 13 residence, place of business, or other fixed premises
 14 which—

15 ~~“(A) retransmits such signals to a remote~~
 16 monitoring center by means of telephone ex-
 17 change service facilities; and

18 ~~“(B) serves to alert persons at the mon-~~
 19 itoring center of the need to inform police, fire,
 20 rescue, or other security or public safety per-
 21 sonnel of the threat at such premises.

22 Such term does not include medical monitoring de-
 23 vices attached to individuals for the automatic sur-
 24 veillance of ongoing medical conditions.

1 “(2) The term ‘Bell operating company’ has the
2 meaning given that term in section 233 of this Act.

3 “(3) The term ‘affiliate’ means a person that
4 (directly or indirectly) owns or controls; is owned or
5 controlled by, or is under common ownership or con-
6 trol with, another person. For purposes of this para-
7 graph, to own refers to owning an equity interest (or
8 equivalent thereof) of more than 50 percent.”.

9 **SEC. 452. REGULATION OF ELECTRONIC PUBLISHING.**

10 Title II of the Communications Act of 1934 (47
11 U.S.C. 201 et seq.), as amended by this Act, is further
12 amended by adding at the end the following new section:

13 **“SEC. 233. REGULATION OF ELECTRONIC PUBLISHING.**

14 “(a) **IN GENERAL.**—(1) A Bell operating company
15 and any affiliate shall not engage in the provision of elec-
16 tronic publishing that is disseminated by means of such
17 Bell operating company’s or any of its affiliates’ basic tele-
18 phone service.

19 “(2) Nothing in this section shall prohibit a separated
20 affiliate or electronic publishing joint venture from engag-
21 ing in the provision of electronic publishing or any other
22 lawful service in any area.

23 “(3) Nothing in this section shall prohibit a Bell op-
24 erating company or affiliate from engaging in the provi-
25 sion of any lawful service other than electronic publishing

1 in any area or from engaging in the provision of electronic
2 publishing that is not disseminated by means of such Bell
3 operating company's or any of its affiliates' basic tele-
4 phone service.

5 ~~“(b) SEPARATED AFFILIATE OR ELECTRONIC PUB-~~
6 ~~LISHING JOINT VENTURE REQUIREMENTS.—A separated~~
7 ~~affiliate or electronic publishing joint venture shall—~~

8 ~~“(1) maintain books, records, and accounts that~~
9 ~~are separate from those of the Bell operating com-~~
10 ~~pany and from any affiliate and which record in ac-~~
11 ~~cordance with generally accepted accounting prin-~~
12 ~~ciples all transactions, whether direct or indirect,~~
13 ~~with the Bell operating company;~~

14 ~~“(2) not incur debt in a manner that would per-~~
15 ~~mit a creditor upon default to have recourse to the~~
16 ~~assets of the Bell operating company;~~

17 ~~“(3) prepare financial statements that are not~~
18 ~~consolidated with those of the Bell operating com-~~
19 ~~pany or any affiliate, provided that consolidated~~
20 ~~statements may also be prepared;~~

21 ~~“(4) file with the Commission annual reports in~~
22 ~~a form substantially equivalent to the Form 10-K~~
23 ~~referenced at 17 CFR 240.310 as that section and~~
24 ~~form are in effect on the date of enactment;~~

1 “(5) after 1 year from the effective date of this
2 section; not hire as corporate officers sales and mar-
3 keting management personnel whose responsibilities
4 at the separated affiliate or electronic publishing
5 joint venture will include the geographic area where
6 the Bell operating company provides basic telephone
7 service; or network operations personnel whose re-
8 sponsibilities at the separated affiliate or electronic
9 publishing joint venture would require dealing di-
10 rectly with the Bell operating company; any person
11 who was employed by the Bell operating company
12 during the year preceding their date of hire; pro-
13 vided that this requirement shall not apply to per-
14 sons subject to a collective bargaining agreement
15 that gives such persons rights to be employed by a
16 separated affiliate or electronic publishing joint ven-
17 ture of the Bell operating company;

18 “(6) not provide any wireline telephone ex-
19 change service in any telephone exchange area where
20 a Bell operating company with which it is under
21 common ownership or control provides basic tele-
22 phone exchange service except on a resale basis;

23 “(7) not use the name, trademarks, or service
24 marks of an existing Bell operating company except
25 for names or service marks that are or were used in

1 common with the entity that owns or controls the
2 Bell operating company;

3 ~~“(8)~~ have performed annually by March 31, or
4 any other date prescribed by the Commission, a
5 compliance review which—

6 ~~“(A)~~ must be conducted by an independent
7 entity which is subject to professional, legal,
8 and ethical obligations for the purpose of deter-
9 mining compliance during the preceding cal-
10 endar year with any provision of this section
11 that imposes a requirement on such separated
12 affiliate or electronic publishing joint venture;
13 and

14 ~~“(B)~~ must be maintained by the separated
15 affiliate for a period of 5 years subject to re-
16 view by any unlawful authority; and

17 ~~“(9)~~ within 90 days of receiving a review de-
18 scribed in paragraph (8); file a report of such excep-
19 tions and any corrective action with the Commission
20 and allow any person to inspect and copy such re-
21 port subject to reasonable safeguards to protect any
22 proprietary information contained in such report
23 from being used for purposes other than to enforce
24 or pursue remedies under this section.

1 “(e) **BELL OPERATING COMPANY REQUIREMENTS.—**

2 **A Bell operating company under common ownership or**
3 **control with a separated affiliate or electronic publishing**
4 **joint venture shall—**

5 “(1) **not provide a separated affiliate any facili-**
6 **ties, services, or basic telephone service information**
7 **unless it makes such facilities, services, or informa-**
8 **tion available to unaffiliated entities upon request**
9 **and on the same terms and conditions;**

10 “(2) **carry out transactions with a separated af-**
11 **filiate in a manner equivalent to the manner that**
12 **unrelated parties would carry out independent trans-**
13 **actions and not based upon the affiliation;**

14 “(3) **carry out transactions with a separated af-**
15 **filiate, which involve the transfer of personnel, as-**
16 **sets, or anything of value, pursuant to written con-**
17 **tracts or tariffs that are filed with the Commission**
18 **and made publicly available;**

19 “(4) **carry out transactions with a separated af-**
20 **filiate in a manner that is auditable in accordance**
21 **with generally accepted accounting principles;**

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

1 ~~“(6)~~ value any assets that are transferred to it
2 by its separated affiliate at the lesser of net book
3 cost or fair market value;

4 ~~“(7)~~ except for—

5 ~~“(A)~~ instances where Commission or State
6 regulations permit in-arrears payment for
7 tariffed telecommunications services; or

8 ~~“(B)~~ the investment by an affiliate of divi-
9 dends or profits derived from a Bell operating
10 company;

11 not provide debt or equity financing directly or indi-
12 rectly to a separated affiliate;

13 ~~“(8)~~ comply fully with all applicable Commis-
14 sion and State cost allocation and other accounting
15 rules;

16 ~~“(9)~~ have performed annually by March 31, or
17 any other date prescribed by the Commission, a
18 compliance review which—

19 ~~“(A)~~ must be conducted by an independent
20 entity which is subject to professional, legal,
21 and ethical obligations for the purpose of deter-
22 mining compliance during the preceding cal-
23 endar year with any provision of this section
24 that imposes a requirement on such Bell oper-
25 ating company; and

1 “(B) must be maintained by the Bell oper-
2 ating company for a period of 5 years subject
3 to review by any lawful authority;

4 “(10) within 90 days of receiving a review de-
5 scribed in paragraph (9), file a report of such excep-
6 tions and any corrective action with the Commission
7 and allow any person to inspect and copy such re-
8 port subject to reasonable safeguards to protect any
9 proprietary information contained in such report
10 from being used for purposes other than to enforce
11 or pursue remedies under this section;

12 “(11) if it provides facilities or services for tele-
13 communication, transmission, billing and collection,
14 or physical collocation to any electronic publisher,
15 including a separated affiliate, for use with or in
16 connection with the provision of electronic publishing
17 that is disseminated by means of such Bell operating
18 company's or any of its affiliates' basic telephone
19 service, provide to all other electronic publishers the
20 same type of facilities and services on request, on
21 the same terms and conditions or as required by the
22 Commission or a State, and unbundled and individ-
23 ually tariffed to the same extent as provided to such
24 publisher;

1 “(12) provide network access and interconnec-
2 tions for basic telephone service to electronic pub-
3 lishers at prices that are regulated so long as the
4 prices for these services are subject to regulation;

5 “(13) if prices for network access and inter-
6 connection for basic telephone service are no longer
7 subject to regulation, provide electronic publishers
8 such services on the same terms and conditions as
9 a separated affiliate receives such services;

10 “(14) if any basic telephone service used by
11 electronic publishers ceases to require a tariff, pro-
12 vide electronic publishers with such service on the
13 same terms and conditions as a separated affiliate
14 receives such service;

15 “(15) provide reasonable advance notification at
16 the same time and on the same terms to all affected
17 electronic publishers of information relating to
18 changes in basic telephone service network design
19 and technical standards which would affect the pro-
20 vision of electronic publishing;

21 “(16) not directly or indirectly provide anything
22 of monetary value to a separated affiliate unless in
23 exchange for consideration at least equal to the
24 greater of its net book cost or fair market value, ex-

1 cept the investment by an affiliate of dividends or
2 profits derived from a Bell operating company;

3 ~~“(17) not discriminate in the presentation or~~
4 ~~provision of any gateway for electronic publishing~~
5 ~~services or any electronic directory of information~~
6 ~~services; which is provided over such Bell operating~~
7 ~~company’s basic telephone service;~~

8 ~~“(18) have no directors, officers, or employees~~
9 ~~in common with a separated affiliate;~~

10 ~~“(19) not own any property in common with a~~
11 ~~separated affiliate;~~

12 ~~“(20) not perform hiring or training of person-~~
13 ~~nel performed on behalf of a separated affiliate;~~

14 ~~“(21) not perform the purchasing, installation,~~
15 ~~or maintenance of equipment on its behalf of a sepa-~~
16 ~~rated affiliate, except for telephone service that it~~
17 ~~provides under tariff or contract subject to the pro-~~
18 ~~visions of this section; and~~

19 ~~“(22) not perform research and development on~~
20 ~~behalf of a separated affiliate.~~

21 ~~“(d) CUSTOMER PROPRIETARY NETWORK INFORMA-~~
22 ~~TION.—A Bell operating company or any affiliate shall not~~
23 ~~provide to any electronic publisher, including a separated~~
24 ~~affiliate or electronic publishing joint venture, customer~~
25 ~~proprietary network information for use with or in connec-~~

1 tion with the provision of electronic publishing that is dis-
 2 seminated by means of such Bell operating company's or
 3 any of its affiliates' basic telephone service that is not
 4 made available by the Bell operating company or affiliate
 5 to all electronic publishers on the same terms and condi-
 6 tions:

7 “(e) COMPLIANCE WITH SAFEGUARDS.—A Bell oper-
 8 ating company, affiliate or its separated affiliate is prohib-
 9 ited from acting in concert with another Bell operating
 10 company or any entity in order to knowingly and willfully
 11 violate or evade the requirements of this section:

12 “(f) TELEPHONE OPERATING COMPANY DIVI-
 13 DENDS.—Nothing in this section shall prohibit an affiliate
 14 from investing dividends derived from a Bell operating
 15 company in its separated affiliate and subsections (i) and
 16 (j) of this section shall not apply to any such investment:

17 “(g) JOINT MARKETING, AND SO FORTH.—Except as
 18 provided in subsection (h)—

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

22 “(2) a Bell operating company shall not carry
 23 out any promotion, marketing, sales, or advertising
 24 or in conjunction with an affiliate that is related to
 25 the provision of electronic publishing:

1 **“(h) PERMISSIBLE JOINT ACTIVITIES.—**

2 **“(1) JOINT TELEMARKETING.—**A Bell operat-
3 ing company may provide inbound telemarketing or
4 referral services related to the provision of electronic
5 publishing for a separated affiliate, electronic pub-
6 lishing joint venture, affiliate, or unaffiliated elec-
7 tronic publisher, provided that if such services are
8 provided to a separated affiliate, electronic publish-
9 ing joint venture, or affiliate, such services shall be
10 made available to all electronic publishers on re-
11 quest, on nondiscriminatory terms, at compensatory
12 prices, and subject to regulations of the Commission
13 to ensure that the Bell operating company’s method
14 of providing telemarketing or referral and its price
15 structure do not competitively disadvantage any elec-
16 tronic publishers regardless of size, including those
17 which do not use the Bell operating company’s
18 telemarketing services.

19 **“(2) TEAMING ARRANGEMENTS.—**A Bell oper-
20 ating company may engage in nondiscriminatory
21 teaming or business arrangements to engage in elec-
22 tronic publishing with any separated affiliate or with
23 any other electronic publisher provided that the Bell
24 operating company only provides facilities, services,
25 and basic telephone service information as author-

1 ized by this section and provided that the Bell oper-
2 ating company own such teaming or business ar-
3 rangement.

4 **“(3) ELECTRONIC PUBLISHING JOINT VEN-**
5 **TURES.—A Bell operating company or affiliate may**
6 **participate on a nonexclusive basis in electronic pub-**
7 **lishing joint ventures with entities that are not any**
8 **Bell operating company, affiliate, or separated affii-**
9 **ate to provide electronic publishing services, provided**
10 **that the Bell operating company or affiliate has not**
11 **more than a 50 percent direct or indirect equity in-**
12 **terest (or the equivalent thereof) or the right to**
13 **more than 50 percent of the gross revenues under**
14 **a revenue sharing or royalty agreement in any elec-**
15 **tronic publishing joint venture. Officers and employ-**
16 **ees of a Bell operating company or affiliate partici-**
17 **pating in an electronic publishing joint venture may**
18 **not have more than 50 percent of the voting control**
19 **over the electronic publishing joint venture. In the**
20 **case of joint ventures with small, local electronic**
21 **publishers, the Commission for good cause shown**
22 **may authorize the Bell operating company or affili-**
23 **ate to have a larger equity interest, revenue share,**
24 **or voting control but not to exceed 80 percent. A**
25 **Bell operating company participating in an elec-**

1 tronic publishing joint venture may provide pro-
 2 motion, marketing, sales, or advertising personnel
 3 and services to such joint venture.

4 ~~“(i) TRANSACTIONS RELATED TO THE PROVISION OF~~
 5 ~~ELECTRONIC PUBLISHING BETWEEN A TELEPHONE OP-~~
 6 ~~ERATING COMPANY AND ANY AFFILIATE.—~~

7 ~~“(1) Any provision of facilities, services, or~~
 8 ~~basic telephone service information or any transfer~~
 9 ~~of assets, personnel, or anything of commercial or~~
 10 ~~competitive value from a Bell operating company to~~
 11 ~~any affiliate related to the provision of electronic~~
 12 ~~publishing shall be—~~

13 ~~“(A) recorded in the books and records of~~
 14 ~~each entity,~~

15 ~~“(B) auditable in accordance with gen-~~
 16 ~~erally accepted accounting principles; and~~

17 ~~“(C) pursuant to written contracts or tar-~~
 18 ~~iffs filed with the Commission or a State and~~
 19 ~~made publicly available.~~

20 ~~“(2) Any transfer of assets directly related to~~
 21 ~~the provision of electronic publishing from a Bell op-~~
 22 ~~erating company to an affiliate shall be valued at the~~
 23 ~~greater of net book cost or fair market value. Any~~
 24 ~~transfer of assets related to the provision of elec-~~
 25 ~~tronic publishing from an affiliate to the Bell operat-~~

1 ing company shall be valued at the lesser of net book
2 cost or fair market value.

3 ~~“(3)~~ A Bell operating company shall not pro-
4 vide an affiliate any facilities, services, or basic tele-
5 phone service information related to the provision of
6 electronic publishing, which such affiliate then di-
7 rectly or indirectly provides to a separated affiliate,
8 and which is not made available to unaffiliated com-
9 panies on the same terms and conditions.

10 ~~“(j)~~ TRANSACTIONS RELATED TO THE PROVISION OF
11 ELECTRONIC PUBLISHING BETWEEN AN AFFILIATE AND
12 A SEPARATED AFFILIATE.—

13 ~~“(1)~~ Any facilities, services, or basic telephone
14 service information provided or any assets, person-
15 nel, or anything of commercial or competitive value
16 transferred, from a Bell operating company to any
17 affiliate as described in subsection (i) and then pro-
18 vided or transferred to a separated affiliate shall
19 be—

20 ~~“(A)~~ recorded in the books and records of
21 each entity;

22 ~~“(B)~~ auditable in accordance with gen-
23 erally accepted accounting principles; and

1 “(C) pursuant to written contracts or tar-
2 iffs filed with the Commission or a State and
3 made publicly available.

4 “(3) Any transfer of assets directly related to
5 the provision of electronic publishing from a Bell op-
6 erating company to any affiliate as described in sub-
7 section (i) and then transferred to a separated affli-
8 ate shall be valued at the greater of net book cost
9 or fair market value. Any transfer of assets related
10 to the provision of electronic publishing from a sepa-
11 rated affiliate to any affiliate and then transferred
12 to the Bell operating company as described in sub-
13 section (i) shall be valued at the lesser of net book
14 cost or fair market value.

15 “(3) An affiliate shall not provide a separated
16 affiliate any facilities, services, or basic telephone
17 service information related to the provision of elec-
18 tronic publishing, which were provided to such affli-
19 ate directly or indirectly by a Bell operating com-
20 pany, and which is not made available to unaffiliated
21 companies on the same terms and conditions.

22 “(h) OTHER ELECTRONIC PUBLISHERS.—Except as
23 provided in subsection (h)(3)—

24 “(1) a bell operating company shall not have
25 any officers, employees, property, or facilities in

1 common with any entity whose principal business is
2 publishing of which a part is electronic publishing;

3 ~~“(2) no officer or employee of a Bell operating~~
4 ~~company shall serve as a director of any entity~~
5 ~~whose principal business is publishing of which a~~
6 ~~part is electronic publishing;~~

7 ~~“(3) for the purposes of paragraphs (1) and~~
8 ~~(2), a Bell operating company or an affiliate that~~
9 ~~owns an electronic publishing joint venture shall not~~
10 ~~be deemed to be engaged in the electronic publishing~~
11 ~~business solely because of such ownership;~~

12 ~~“(4) a Bell operating company shall not carry~~
13 ~~out—~~

14 ~~“(A) any marketing or sales for any entity~~
15 ~~that engages in electronic publishing; or~~

16 ~~“(B) any hiring of personnel; purchasing;~~
17 ~~or production; for any entity that engages in~~
18 ~~electronic publishing; and~~

19 ~~“(5) the Bell operating company shall not pro-~~
20 ~~vide any facilities, services, or basic telephone service~~
21 ~~information to any entity that engages in electronic~~
22 ~~publishing; for use with or in connection with the~~
23 ~~provision of electronic publishing that is dissemi-~~
24 ~~nated by means of such Bell operating company's or~~
25 ~~any of its affiliates' basic telephone service; unless;~~

1 equivalent facilities, services, or information are
 2 made available on equivalent terms and conditions to
 3 all:

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

9 ~~“(m) SUNSET.—~~The provisions of this section shall
 10 cease to apply to a Bell operating company or its affiliate
 11 or separated affiliate in any telephone exchange area on
 12 June 30, 2000.

13 ~~“(n) PRIVATE RIGHT OF ACTION.—~~

14 ~~“(1) Any person claiming that any act or prac-~~
 15 ~~tice of any Bell operating company, affiliate, or sep-~~
 16 ~~arated affiliate constitutes a violation of this section~~
 17 ~~may file a complaint with the Commission or bring~~
 18 ~~suit as provided in section 207 of this Act, and such~~
 19 ~~Bell operating company, affiliate, or separated affili-~~
 20 ~~ate shall be liable as provided in section 206 of this~~
 21 ~~Act: Provided, however, That damages may not be~~
 22 ~~awarded for a violation that is discovered by a com-~~
 23 ~~pliance review as required by subsection (b)(8) or~~
 24 ~~(c)(9) of this section and corrected within 90 days.~~

1 “(2) In addition to the provisions of paragraph
2 (1), any person claiming that any act or practice of
3 any Bell operating company, affiliate, or separated
4 affiliate constitutes a violation of this section may
5 make application to the Commission for an order to
6 cease and desist such violation or may make applica-
7 tion in any district court of the United States of
8 competent jurisdiction for an order enjoining such
9 acts or practices or for an order compelling compli-
10 ance with such requirement.

11 “(o) **ANTITRUST LAWS.**—Nothing in this section
12 shall be construed to modify, impair, or supersede the ap-
13 plicability of any of the antitrust laws.

14 “(p) **DEFINITIONS.**—As used in this section:

15 “(1) The term ‘affiliate’ means any entity that,
16 directly or indirectly, owns or controls, is owned or
17 controlled by, or is under common ownership or con-
18 trol with, a Bell operating company. Such term shall
19 not include a separated affiliate.

20 “(2) the term ‘basic telephone service’ means
21 wireline telephone exchange service provided by a
22 Bell operating company in a telephone exchange
23 area, except—

24 “(A) a competitive wireline telephone ex-
25 change service provided in a telephone exchange

1 area where another entity provides a wireline
2 telephone exchange service that was provided on
3 January 1, 1984, and

4 "(B) wireless telephone exchange service
5 provided by an affiliate that is required by the
6 Commission to be a corporate entity separate
7 from the Bell operating company.

8 "(3) The term 'basic telephone service informa-
9 tion' means network and customer information of a
10 Bell operating company and other information ac-
11 quired by a Bell operating company as a result of
12 its engaging in the provision of basic telephone
13 service.

14 "(4) The term 'control' has the meaning that it
15 has in 17 CFR 240.12b-2, the regulations promul-
16 gated by the Securities and Exchange Commission
17 pursuant to the Securities Exchange Act of 1934
18 (15 U.S.C. 78a et seq.) or any successor provision
19 to such section.

20 "(5) The term 'customer proprietary network
21 information' means—

22 "(A) information which—

23 "(i) relates to the quantity, technical
24 configuration, type, destination, and
25 amount of use of telephone exchange serv-

1 ice or interexchange telephone service sub-
2 scribed to by any customer of a Bell oper-
3 ating company; and

4 “(ii) is available to the Bell operating
5 company by virtue of the telephone com-
6 pany-customer relationship; and

7 “(B) information contained in the bills for
8 telephone exchange service or interexchange
9 telephone service received by a customer of a
10 Bell operating company:

11 “(G)(A) The term ‘electronic publishing’ means
12 the dissemination, provision, publication, or sale by
13 a provider or publisher to an unaffiliated entity or
14 person using a Bell operating company’s local ex-
15 change facility of any information which the provider
16 or publisher has or has caused to be originated, au-
17 thored, compiled, collected, or edited or in which the
18 provider or publisher has direct or indirect financial
19 or proprietary interest, including but not limited to
20 the following:

21 “(i) News or entertainment:

22 “(ii) Business, financial, legal, consumer,
23 or credit material:

24 “(iii) Editorials:

25 “(iv) Columns:

- 1 **“(v) Sports reporting.**
- 2 **“(vi) Features.**
- 3 **“(vi) Advertising.**
- 4 **“(viii) Photos or images.**
- 5 **“(ix) Archival or research material.**
- 6 **“(x) Legal notices or public records.**
- 7 **“(xi) Scientific, educational, instructional,**
- 8 **technical, professional, trade, or other literary**
- 9 **materials.**
- 10 **“(xii) Other like or similar information.**
- 11 **“(B) The term ‘electronic publishing’ shall not**
- 12 **include the following network services:**
- 13 **“(i) Information access as that term is de-**
- 14 **finied by the Modification of Final Judgment.**
- 15 **“(ii) The transmission of information as a**
- 16 **common carrier.**
- 17 **“(iii) The transmission of information as**
- 18 **part of a gateway to an information service that**
- 19 **does not involve the generation or alteration of**
- 20 **the content of information, including data**
- 21 **transmission, address translation, protocol con-**
- 22 **version, billing management, introductory infor-**
- 23 **mation content, and navigational systems that**
- 24 **enable users to access electronic publishing**

1 services, which do not affect the presentation of
2 such electronic publishing services to users:

3 ~~“(iv) Voice storage and retrieval services,~~
4 including voice messaging and electronic mail
5 services:

6 ~~“(v) Level 2 gateway services as those~~
7 services are defined by the Commission’s Sec-
8 ond Report and Order, Recommendation to
9 Congress and Second Further Notice of Pro-
10 posed Rulemaking in CC Docket No. 87-266
11 dated August 14, 1992.

12 ~~“(vi) Data processing services that do not~~
13 involve the generation or alteration of the con-
14 tent of information:

15 ~~“(vii) Transaction processing systems that~~
16 do not involve the generation or alteration of
17 the content of information:

18 ~~“(viii) Electronic billing or advertising of a~~
19 Bell operating company’s regulated tele-
20 communications services:

21 ~~“(ix) Language translation:~~

22 ~~“(x) Conversion of data from one format~~
23 to another:

24 ~~“(xi) The provision of information nec-~~
25 essary for the management, control, or oper-

1 ation of a telephone company telecommuni-
2 cations system:

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

6 “(xiii) Caller identification services:

7 “(xiv) Repair and provisioning databases
8 for telephone company operations:

9 “(xv) Credit card and billing validation for
10 telephone company operations:

11 “(xvi) 911-E and other emergency assist-
12 ance databases:

13 “(xvii) Any other network service of a type
14 that is like or similar to these network services
15 and that does not involve the generation or al-
16 teration of the content of information:

17 “(xviii) Any upgrades to these network
18 services that do not involve the generation or
19 alteration of the content of information:

20 “(C) The term ‘electronic publishing’ also shall
21 not include—

22 “(i) full motion video entertainment on de-
23 mand; and

24 “(ii) video programming as defined in sec-
25 tion 602 of this Act:

1 “(7) The term ‘electronic publishing joint ven-
2 ture’ means a joint venture owned by a Bell operat-
3 ing company or affiliate that engages in the provi-
4 sion of electronic publishing which is disseminated
5 by means of such Bell operating company’s or any
6 of its affiliates’ basic telephone service.

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

10 “(9) The term ‘inbound telemarketing’ means
11 the marketing of property, goods, or services by tele-
12 phone to a customer or potential customer who initi-
13 ated the call.

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

20 “(11) The term ‘separated affiliate’ means a
21 corporation under common ownership or control with
22 a Bell operating company that does not own or con-
23 trol a Bell operating company and is not owned or
24 controlled by a Bell operating company and that en-
25 gages in the provision of electronic publishing which

1 is disseminated by means of such Bell operating
2 company's or any of its affiliates' basic telephone
3 service.

4 ~~“(12) The term ‘Bell operating company’ means~~
5 ~~the corporations subject to the Modification of Final~~
6 ~~Judgment and listed in Appendix A thereof, or any~~
7 ~~entity owned or controlled by such corporation, or~~
8 ~~any successor or assign of such corporation, but~~
9 ~~does not include an electronic publishing joint ven-~~
10 ~~ture owned by such corporation or entity.”~~

11 **Subtitle C—Information Services**

12 **SEC. 491. PROVISION OF INFORMATION SERVICES.**

13 Title II of the Communications Act of 1934 (47
14 U.S.C. 201 et seq.), as amended by this Act, is further
15 amended by adding at the end the following new section:

16 **“SEC. 534. PROVISION OF INFORMATION SERVICES.**

17 **“(a) PROVISION OF GATEWAY SERVICES.—**Unless ex-
18 pressly provided elsewhere in this Act, and Bell operating
19 company or affiliate thereof that offers a gateway service
20 shall make such service available concurrently to all of its
21 subscribers under nondiscriminatory rates, terms, and
22 conditions, and shall offer gateway service functions to all
23 providers of information services on nondiscriminatory
24 rates, terms, and conditions.

1 “(b) ~~PREVENTION OF CROSS-SUBSIDIES.~~—In addi-
2 tion to regulations on cross-subsidization that are pre-
3 scribed under other provisions of this Act, the Commission
4 shall prescribe cost allocation regulations to prevent any
5 Bell operating company or affiliate that offers services
6 that have market power from using revenues from such
7 services to subsidize competitive information services.

8 “(c) ~~RESTRICTION ON STATE REGULATION.~~—Not-
9 withstanding section 2(b) of this Act, a State may not reg-
10 ulate the rates, terms, or conditions for the offering of
11 information services, except as provided in title VI.

12 “(d) ~~DEFINITIONS.~~—As used in this section:

13 “(1) The term ‘Bell operating company’ has the
14 meaning given that term under section 231.

15 “(2) The term ‘gateway service’ means an in-
16 formation service that, at the request of the provider
17 of an electronic publishing service or other informa-
18 tion service, provides a subscriber with access to
19 such electronic publishing service or other informa-
20 tion service, utilizing the following functions: data
21 transmission; address translation; billing informa-
22 tion; protocol conversion; and introductory informa-
23 tion content.

24 “(3) The term ‘affiliate’ has the meaning given
25 that term under section 236 of this Act.”.

1 **Subtitle D—InterLATA Telecommunications**
2 **Services**

3 **SEC. 481. INTERLATA TELECOMMUNICATIONS SERVICES.**

4 Title II of the Communications Act of 1934 (47
5 U.S.C. 201 et seq.), as amended by this Act, is further
6 amended by adding at the end the following new section:

7 **“SEC. 235. INTERLATA TELECOMMUNICATIONS SERVICES.**

8 **“(a) AUTHORITY.—**Notwithstanding any restriction
9 or obligation imposed before the date of enactment of this
10 section pursuant to section II(D) of the Modification of
11 Final Judgment, a Bell operating company may engage
12 in the provision of interLATA telecommunications services
13 subject to the requirements of this section and any regula-
14 tions prescribed thereunder. No Bell operating company
15 or affiliate of a Bell operating company shall engage in
16 the provision of interLATA telecommunications services,
17 except as provided in this section.

18 **“(b) CURRENTLY AUTHORIZED ACTIVITIES.—**Sub-
19 section (a) shall not prohibit a Bell operating company
20 from engaging, at any time after the date of enactment
21 of this section, in any activity as authorized by an order
22 entered by the United States District Court for the Dis-
23 trict of Columbia pursuant to section VIII(C) of the Modi-
24 fication of Final Judgment if such order was entered on
25 or before such date of enactment.

1 “(c) PETITION FOR AUTHORITY.—

2 “(1) IN GENERAL.—A Bell operating company
3 or its affiliate may petition the Commission for au-
4 thority to provide interLATA telecommunications
5 services. The petition shall describe with particular-
6 ity the nature and scope of each proposed
7 interLATA telecommunications service, and of each
8 product market or service market, and each geo-
9 graphic market, for which authorization is sought.

10 “(2) REQUIRED SHOWING FOR IN-MARKET
11 SERVICES.—The Commission may, after consultation
12 with the Attorney General, and on the record after
13 opportunity for a hearing in which the public has an
14 opportunity to participate, grant a petition for au-
15 thority to offer an interLATA telecommunications
16 service to be originated, terminated, or otherwise
17 provided in any area in which the petitioner or its
18 affiliate provides telephone exchange or exchange ac-
19 cess services, only if—

20 “(A) the showing required by paragraph
21 (3) is made;

22 “(B) all the regulations required by section
23 230 have been prescribed by the Commission,
24 and each relevant State certifies and the Com-
25 mission finds that the petitioning Bell operating

1 company or its affiliate is providing telephone
2 exchange and exchange access service in the rel-
3 evant telephone exchange or exchange access
4 market in full compliance with such regulations;
5 and

6 “(C) the Commission finds, after receiving
7 factual evidence submitted by the State, that
8 there is actual and demonstrable competition to
9 the Bell operating company’s telephone ex-
10 change and exchange access services in each
11 relevant area, based on the requirement that
12 actual and demonstrable competition exists
13 when telephone exchange and exchange access
14 services—

15 “(i) are available from at least one
16 provider that is unaffiliated with the peti-
17 tioning Bell operating company or its af-
18 filiates;

19 “(ii) offered predominantly over facili-
20 ties not owned or controlled by the Bell op-
21 erating company or its affiliates and are
22 comparable in geographic range, function,
23 quality, and price to the service offered by
24 the petitioning Bell operating company or
25 its affiliate; and

1 “(iii) subscribed to by a significant
2 number of persons in each relevant area:

3 “~~(3)~~ REQUIRED SHOWING FOR OUT-OF-MARKET
4 SERVICES.—The Commission may, after consultation
5 with the Attorney General, and on the record after
6 opportunity for a hearing in which the public has an
7 opportunity to participate, grant authority to a peti-
8 tioning Bell operating company or its affiliate to
9 provide interLATA telecommunications services not
10 described in paragraph (2), upon a showing by the
11 petitioner that there is no substantial possibility that
12 the Bell operating company or its affiliates could use
13 market power in a telephone exchange and exchange
14 access service market to impede competition in the
15 interLATA telecommunications services market that
16 the petitioner seeks to enter.

17 “~~(4)~~ INTERLATA TELECOMMUNICATIONS SERV-
18 ICE SAFEGUARDS.—

19 “~~(A)~~ SEPARATE SUBSIDIARY, FULFILL-
20 MENT OF CERTAIN REQUESTS.—Other than
21 interLATA services authorized by an order en-
22 tered by the United States District Court for
23 the District of Columbia pursuant to section
24 VIII(C) of the Modification of Final Judgment
25 before the date of the enactment of this section,

1 a Bell operating company or an affiliate thereof
2 providing interLATA services authorized under
3 this subsection shall do so through a separate
4 subsidiary as specified in section 236. Such sep-
5 arate subsidiary shall—

6 “(i) fulfill any requests from an unaf-
7 filiated entity for exchange access service
8 within a period no longer than that in
9 which it provides such exchange access
10 service to itself or to its affiliates;

11 “(ii) fulfill any such requests with ex-
12 change access service of a quality that
13 meets or exceeds the quality of exchange
14 access services provided by the Bell operat-
15 ing company or its affiliates to itself or its
16 affiliate; and

17 “(iii) provide exchange access at rates
18 to all interLATA carrier at rates that are
19 not unreasonably discriminatory.

20 “(B) COMMISSION ACTION ON COM-
21 PLAINTS.—With respect to any complaint
22 brought under section 208 alleging a violation
23 of this section or the regulations implementing
24 it, the Commission shall issue a final order
25 within 1 year after such complaint is filed.

1 ~~“(d) ADDITIONAL INTERLATA AUTHORITY ASSOCI-~~
2 ~~ATED WITH CABLE TELEVISION SERVICE.—~~

3 ~~“(1) AUTHORITY.—Notwithstanding subsection~~
4 ~~(c), a Bell operating company or its affiliate may—~~

5 ~~“(A) own and operate receive-only anten-~~
6 ~~nas, satellite master antenna television facili-~~
7 ~~ties, and satellite earth stations, solely for the~~
8 ~~purpose of providing cable service;~~

9 ~~“(B) own and operate interLATA distribu-~~
10 ~~tion facilities solely for the purpose of providing~~
11 ~~cable service; and~~

12 ~~“(C) engage in interLATA telecommuni-~~
13 ~~cations service for the purpose of one-way~~
14 ~~transmission of video and audio programming~~
15 ~~solely for cable service.~~

16 ~~“(2) RESTRICTION.—A Bell operating company~~
17 ~~may own and operate the antennas, stations, and fa-~~
18 ~~cilities described in paragraph (1)(A) and (B) only~~
19 ~~through one or more affiliates that are totally sepa-~~
20 ~~rate from the Bell operating company’s local ex-~~
21 ~~change company.~~

22 ~~“(e) ADDITIONAL AUTHORITY TO PROVIDE~~
23 ~~INTERLATA SERVICES RELATING TO CELLULAR MOBILE~~
24 ~~RADIO SERVICES.—~~

1 “(1) **AUTHORITY.**—A Bell operating company
2 or its cellular affiliate may provide the interLATA
3 services authorized under this section solely as nec-
4 essary to provide cellular mobile radio services.

5 “(2) **INTERSYSTEM HANDOFF.**—A Bell operat-
6 ing company or its cellular affiliate may provide
7 intersystem handoff, across LATA boundaries, of
8 cellular mobile radio transmissions between adjacent
9 cellular systems, including the provision of such
10 transmission facilities as are necessary to allow the
11 continuation of calls in progress without interruption
12 or degradation of service due to the movement of the
13 mobile telephone unit or the characteristics of radio
14 propagation.

15 “(3) **AUTOMATIC CALL DELIVERY.**—A Bell op-
16 erating company or its cellular affiliate may provide
17 the routing of cellular transmissions between its cel-
18 lular system and a cellular system located in another
19 LATA, for purposes of completing a call to one of
20 its out-of-region cellular customers.

21 “(4) **USE OF LEASED FACILITIES.**—Facilities
22 necessary for intersystem handoff across LATA
23 boundaries or interLATA routing of cellular trans-
24 missions, as permitted under paragraphs (2) and
25 (3), shall be leased by a Bell operating company or

1 its cellular affiliate from a carrier (other than a Bell
2 operating company or its affiliate) authorized to pro-
3 vide interLATA telecommunications:

4 **“(5) EQUAL ACCESS AND PRESUBSCRIPTION.—**
5 **Notwithstanding any restriction or obligation im-**
6 **posed pursuant to the Modification of Final Judge-**
7 **ment before the date of enactment of this section,**
8 **the Commission shall prescribe uniform equal access**
9 **and long distance presubscription requirements for**
10 **providers of all cellular and two-way wireless serv-**
11 **ices.**

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

13 **“(1) The term ‘LATA’ means the local access**
14 **and transport areas as defined in United States v.**
15 **Western Electric Co., 560 F.Supp. 890 (United**
16 **States District Court, District of Columbia) and**
17 **subsequent judicial orders relating thereto.**

18 **“(2) the term ‘cable service’ has the meaning**
19 **given that term under section 602.”**

20 **SEC. 482. JURISDICTION.**

21 **Section 2(b) of the Communications Act of 1934 (47**
22 **U.S.C. 152) is amended by striking “section 322” and in-**
23 **serting in lieu thereof “sections 220, 230, 234, 235, 237,**
24 **and 232”.**

1 **TITLE V—REGULATORY PARITY BETWEEN**
2 **TELEPHONE AND CABLE COMPANIES**

3 **SEC. 501. OWNERSHIP AND CONTROL OF CABLE TELE-**
4 **VISION SYSTEMS AND TELEPHONE COMPA-**
5 **NIES.**

6 Section 613(b) of the Communications Act of 1934
7 (~~47 U.S.C. 533(b)~~) is amended to read as follows:

8 ~~“(b)(1)(A) No local exchange carrier, subject in whole~~
9 ~~or in part to title II of this Act, nor any affiliate of such~~
10 ~~carrier, owned by, operated by, controlled by, or under~~
11 ~~common control with such carrier, may—~~

12 ~~“(i) purchase or otherwise acquire, directly or~~
13 ~~indirectly, more than a 5 percent financial interest,~~
14 ~~any management interest, or any other interest, in~~
15 ~~any cable system that is providing service within the~~
16 ~~carrier’s telephone exchange service area and is~~
17 ~~owned by an unaffiliated person; or~~

18 ~~“(ii) enter into any joint venture or partnership~~
19 ~~with a cable operator to provide video programming~~
20 ~~to subscribers within such telephone exchange serv-~~
21 ~~ice area.~~

22 ~~“(B) A local exchange carrier shall not provide video~~
23 ~~programming directly to subscribers in its telephone ex-~~
24 ~~change service area unless—~~

1 ~~“(i)~~ such video programming is provided
2 through a separate subsidiary as set forth in section
3 236; and

4 ~~“(ii)~~ the Commission finds that the local ex-
5 change carrier offers service in full compliance with
6 the regulations prescribed under section 230 in the
7 geographic area in which it seeks to provide video
8 programming.

9 ~~“(C)~~ A local exchange carrier that provides video pro-
10 gramming directly to subscribers is a cable operator as
11 defined in section 602.

12 ~~“(D)~~ a local exchange carrier shall not engage in
13 practices prohibited by the Commission or by a State (in-
14 cluding but not limited to the improper assignment of
15 costs) that subsidize directly or indirectly its video pro-
16 gramming operations.

17 ~~“(E)~~ Subparagraphs (A) and (B) shall not apply to
18 a local exchange carrier to the extent that such carrier
19 provides telephone exchange service in an area to which
20 an exemption applies under section 63-58 of title 47, Code
21 of Federal Regulations (as in effect on the date of enact-
22 ment of the Communications Act of 1994).

23 ~~“(F)~~ Upon a showing that a local exchange carrier
24 has no market power in its telephone service area, the

1 Commission shall exempt the carrier from the provisions
2 of subparagraphs (B) and (D).

3 ~~“(B)(A)~~ A cable operator shall not provide tele-
4 communications services directly to subscribers in its cable
5 service area unless such telecommunications services are
6 provided through a separate subsidiary.

7 ~~“(B)~~ No cable operator, nor any affiliate of such
8 cable operator, owned by, operated by, controlled by, or
9 under common ownership with such cable operator, may—

10 ~~“(i)~~ purchase or otherwise acquire, directly or
11 indirectly, more than a 5 percent financial interest,
12 any management interest, or any other interest, in
13 any local exchange carrier that is providing local ex-
14 change service within the cable operator's service
15 area; or

16 ~~“(ii)~~ enter into any joint venture or partnership
17 with such local exchange carrier, unless—

18 ~~“(I)~~ the joint venture or partnership ad-
19 vances the objectives of local competition by
20 promoting or increasing telecommunications
21 competition over facilities separate from the
22 local exchange carrier's facilities in the local ex-
23 change carrier's service area; and

24 ~~“(II)~~ the local exchange carrier's interest
25 in such competing telecommunications services

1 provider does not retard the competing provid-
 2 er's incentives to compete.

3 ~~“(C) A cable operator shall not engage in practices~~
 4 ~~prohibited by the Commission or by a State (including but~~
 5 ~~not limited to the improper assignment of costs) that sub-~~
 6 ~~sidize directly or indirectly its telecommunications serv-~~
 7 ~~ices.~~

8 ~~“(D) Upon a showing that a cable operator has no~~
 9 ~~market power in its cable service area, the Commission~~
 10 ~~shall exempt the cable operator from the provisions of sub-~~
 11 ~~paragraphs (A), (B), and (C).”.~~

12 **SEC. 502. CONSUMER AND COMPETITIVE SAFEGUARDS.**

13 Title II of the Communications Act of 1934 (47
 14 U.S.C. 201 et seq.), as amended by this Act, is further
 15 amended by adding at the end the following new section:

16 **“SEC 236. CONSUMER AND COMPETITIVE SAFEGUARDS.**

17 **“(a) SEPARATE SUBSIDIARY.—**

18 **“(1) IN GENERAL.—**Any subsidiary required by
 19 section 235 or 613(b)(1) shall, at a minimum, be
 20 separated from a local exchange carrier, in accord-
 21 ance with the requirements of this subsection and
 22 the regulations prescribed by the Commission to
 23 carry out this subsection.

24 **“(2) TRANSACTION REQUIREMENTS.—**Any
 25 transaction between such a subsidiary and any local

1 exchange carrier and any other affiliate of the car-
2 rier shall not be based upon any preference or dis-
3 crimination in favor of the subsidiary arising out of
4 the subsidiary's affiliation with the carrier.

5 **"(3) SEPARATE OPERATION AND PROPERTY.—**

6 A subsidiary required by this subsection may not
7 enter into any joint venture activities or partnership
8 with a local exchange carrier or any affiliate of such
9 carrier.

10 **"(4) SEPARATE COMMERCIAL ACTIVITIES.—A**

11 subsidiary required by this subsection shall carry out
12 its marketing and sales directly and separate from
13 any local exchange carrier or its affiliate.

14 **"(5) BOOKS, RECORDS, AND ACCOUNTS.—Any**

15 subsidiary required by this subsection shall maintain
16 books, records, and accounts in a manner prescribed
17 by the Commission which shall be separate from the
18 books, records, and accounts maintained by any local
19 exchange carrier or any affiliates of such carrier.

20 **"(6) PROVISION OF SERVICES AND INFORMA-**

21 **TION.—A local exchange carrier may not provide any**
22 **services or information to a subsidiary required by**
23 **this subsection unless such services or information**
24 **are made available to others on the same terms and**
25 **conditions.**

1 ~~“(7) PREVENTION OF CROSS-SUBSIDIES.—~~Any
2 local exchange carrier required to maintain a sub-
3 sidiary under this subsection shall establish and ad-
4 minister, in accordance with the requirements of this
5 subsection and the regulations prescribed there-
6 under, a cost allocation system that prohibits any
7 cost of providing competitive services from being
8 subsidized by revenue from telephone exchange serv-
9 ices. The cost allocation system shall employ a for-
10 mula that ensures that—

11 ~~“(A) the rates for telephone exchange serv-~~
12 ices are no greater than they would have been
13 in the absence of such investment in competi-
14 tive services (taking into account any decline in
15 the real costs of providing such telephone ex-
16 change services); and

17 ~~“(B) competitive services bear a reasonable~~
18 share of the joint and common costs of facilities
19 used to provide telephone exchange and com-
20 petitive services.

21 ~~“(8) ASSETS.—~~The Commission shall, by regu-
22 lation, ensure that the economic risks associated
23 with the provision of competitive services by a local
24 exchange carrier or an affiliate thereof (including
25 any increases in the carrier's cost of capital that

1 occur as a result of the provision of such services)
2 are not borne by customers of telephone exchange
3 services in the event of a business loss or failure. In-
4 vestments or other expenditures assigned to competi-
5 tive services shall not be reassigned to telephone ex-
6 change service or telephone exchange access service.

7 ~~“(0) DEBT.—Any local exchange carrier, which~~
8 ~~is required to be or is structurally separate from an~~
9 ~~affiliate engaged in the provision of telephone ex-~~
10 ~~change services, shall not obtain credit under any ar-~~
11 ~~angement that would—~~

12 ~~“(A) permit a creditor, upon default, to~~
13 ~~have recourse to the assets of the local ex-~~
14 ~~change carrier, or~~

15 ~~“(B) induce a creditor to rely on the tan-~~
16 ~~gible or intangible assets of the local exchange~~
17 ~~carrier in extending credit.~~

18 ~~“(b) DEFINITIONS.—As used in this section, the term~~
19 ~~‘affiliate’ means any organization or entity that, directly~~
20 ~~or indirectly, owns or controls, or is owned or controlled~~
21 ~~by, or is under common ownership or control with, a local~~
22 ~~exchange carrier. For purposes of this subsection, the~~
23 ~~terms ‘own’, ‘owned’, and ‘ownership’ mean a direct or in-~~
24 ~~direct equity interest (or equivalent thereof) of more than~~
25 ~~5 percent of an organization or entity, or the right to more~~

1 than 5 percent of the gross revenues of an organization
 2 or entity under a revenue sharing or royalty agreement,
 3 or any substantial management or financial interest.”

4 **TITLE VI—CUSTOMER CONTROL OVER**
 5 **INFORMATION**

6 **SEC. 601. CUSTOMER INFORMATION PROTECTIONS.**

7 Title II of the Communications Act of 1934 (47
 8 U.S.C. 201 et seq.), as amended by this Act, is further
 9 amended by adding at the end the following new section:

10 **“SEC. 207. CUSTOMER INFORMATION REQUIREMENTS.**

11 **“(a) CUSTOMER PROPRIETARY NETWORK INFORMA-**
 12 **TION.—A local exchange carrier—**

13 **“(1) shall not, except as required by law or**
 14 **upon the affirmative request of the customer to**
 15 **which the information relates—**

16 **“(A) use customer proprietary network in-**
 17 **formation in the providing of any service other**
 18 **than (i) telephone exchange service or telephone**
 19 **toll service; or (ii) a service necessary to or used**
 20 **in the provision of telephone exchange service**
 21 **or telephone toll service;**

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

1 the service from which such information is de-
2 rived;

3 ~~“(C) use such information in their provi-~~
4 ~~sion of customer premises equipment; or~~

5 ~~“(D) disclose such information to any affil-~~
6 ~~iate of such common carrier or any other per-~~
7 ~~son that is not an employee of such carrier;~~

8 ~~“(2) shall disclose such information, upon af-~~
9 ~~firmative written request by the customer, to any~~
10 ~~person designated by the customer;~~

11 ~~“(3) shall, whenever such common carrier pro-~~
12 ~~vides any aggregate information based on customer~~
13 ~~proprietary network information or any data base or~~
14 ~~other compilation of customer proprietary informa-~~
15 ~~tion to any personnel of such common carrier, or~~
16 ~~any affiliate of such common carrier, that are en-~~
17 ~~gaged in providing any service that is not necessary~~
18 ~~to the provision of telephone exchange service, or~~
19 ~~that are engaged in the provision of customer prem-~~
20 ~~ises equipment; or to any other person that is not~~
21 ~~an employee or affiliate of such carrier, notify the~~
22 ~~Commission of the availability of such aggregate or~~
23 ~~compiled information and shall provide such aggre-~~
24 ~~gate or compiled information on reasonable terms~~

1 and conditions to any other service or equipment
2 provider upon reasonable request therefor; and

3 ~~“(4) shall not discriminate between affiliated~~
4 ~~and unaffiliated service or equipment providers in~~
5 ~~providing access to; or in the use and disclosure of;~~
6 ~~individual and aggregate or compiled information~~
7 ~~made available consistent with this subsection.~~

8 ~~“(b) RULE OF CONSTRUCTION.—This section shall~~
9 ~~not be construed to prohibit the disclosure of customer~~
10 ~~proprietary network information as necessary—~~

11 ~~“(1) to render, bill, and collect for telephone ex-~~
12 ~~change service or telephone toll service;~~

13 ~~“(2) to render, bill, and collect for any other~~
14 ~~telecommunications service that the customer has re-~~
15 ~~quested;~~

16 ~~“(3) to protect the rights or property of the~~
17 ~~carrier; or~~

18 ~~“(4) to protect users of any of these services~~
19 ~~and other carriers from fraudulent, abusive, or un-~~
20 ~~lawful use of or subscription to such service.~~

21 ~~“(c) EXEMPTION PERMITTED.—The Commission~~
22 ~~may, by rule, exempt from the requirements of subsection~~
23 ~~(a) local exchange carriers that do not have 1,000,000 ag-~~
24 ~~gregate nationwide lines installed if the Commission deter-~~
25 ~~mines that such exemption is in the public interest or if~~

1 compliance with the requirements would impose an undue
2 economic burden on the carrier.

3 “(d) **DUTY TO PROVIDE SUBSCRIBER LIST INFORMA-**
4 **TION.**—Notwithstanding subsections (a), (b), and (c), a
5 local exchange carrier that provides subscriber list infor-
6 mation to any affiliated or unaffiliated service provider or
7 person shall provide subscriber list information on a timely
8 and unbundled basis, under nondiscriminatory and reason-
9 able rates, terms, and conditions, to any person upon rea-
10 sonable request.

11 “(e) **AUTOMATIC NUMBER IDENTIFICATION SERV-**
12 **ICES.**—

13 “(1) **CONTRACT REQUIREMENTS.**—Any common
14 carrier or affiliate of a common carrier providing
15 automatic number identification services to any per-
16 son shall provide such services under a contract or
17 tariff containing telephone subscriber information
18 requirements that comply with this subsection. Such
19 requirements shall—

20 “(A) permit such person to use the tele-
21 phone number and billing information provided
22 pursuant to the automatic number identifica-
23 tion service for billing and collection, routing,
24 screening, and completion of the originating
25 telephone subscriber's call or transaction, or for

1 services directly related to the originating tele-
2 phone subscriber's call or transaction;

3 ~~“(B) prohibit such person from reusing or~~
4 ~~selling the telephone number or billing informa-~~
5 ~~tion provided pursuant to the automatic num-~~
6 ~~ber identification service without first orally (i)~~
7 ~~notifying the originating telephone subscriber~~
8 ~~and (ii) extending to such subscriber the option~~
9 ~~to limit or prohibit such reuse or sale; and~~

10 ~~“(C) prohibit such person from disclosing,~~
11 ~~except as permitted by subparagraphs (A) and~~
12 ~~(B), any information derived from the auto-~~
13 ~~matic number identification service for any pur-~~
14 ~~pose other than—~~

15 ~~“(i) performing the services or trans-~~
16 ~~actions that are the subject of the originat-~~
17 ~~ing telephone subscriber's call;~~

18 ~~“(ii) ensuring network performance,~~
19 ~~security, and the effectiveness of call deliv-~~
20 ~~ery;~~

21 ~~“(iii) compiling, using, and disclosing~~
22 ~~aggregate information; and~~

23 ~~“(iv) complying with applicable law or~~
24 ~~legal process.~~

1 **“(2) EXCEPTION FOR ESTABLISHED CUS-**
2 **TOMERS.—**The customer information requirements
3 imposed under paragraph (1) shall not prevent a
4 person to which automatic number identification
5 services are provided from using—

6 **“(A) the telephone number and billing**
7 **information provided pursuant to such**
8 **service; and**

9 **“(B) any information derived from**
10 **the automatic number identification serv-**
11 **ice; or from the analysis of the characteris-**
12 **tics of a telecommunications transmission;**
13 to offer, to any telephone subscriber with which such
14 person has an established customer relationship; a
15 product or service that is directly related to the
16 products or service previously acquired by that cus-
17 tomer from such person.

18 **“(3) ENFORCEMENT.—(A) Each common car-**
19 **rier shall receive and transmit to the Commission**
20 **complaints concerning violations of the telephone**
21 **subscriber information requirements imposed under**
22 **paragraph (1). Each common carrier shall submit to**
23 **the Commission; in such form as the Commission**
24 **may require by regulation; reports on actions taken**
25 **by the carrier to comply with this section.**

1 ~~“(B) The Commission may, by rule or order, di-~~
2 ~~rect the termination of automatic number identifica-~~
3 ~~tion services to any person who has violated the tele-~~
4 ~~phone subscriber information requirements imposed~~
5 ~~under paragraph (1). For purposes of section~~
6 ~~503(b)(1)(B), violations of such requirements shall~~
7 ~~be considered to be a violation of a provision of this~~
8 ~~Act.~~

9 ~~“(4) EFFECTIVE DATE.—(A) Except as pro-~~
10 ~~vided in subparagraph (B), the requirements of this~~
11 ~~subsection shall apply to any automatic number~~
12 ~~identification service provided on or after one year~~
13 ~~after the date of enactment of this subsection.~~

14 ~~“(B) In the case of any automatic number iden-~~
15 ~~tification service provided under a contract entered~~
16 ~~into, or tariff taking effect, more than 90 days after~~
17 ~~the date of enactment of this subsection, the require-~~
18 ~~ments of this subsection shall apply to any auto-~~
19 ~~matic number identification service provided pursu-~~
20 ~~ant to such contract or tariff.~~

21 ~~“(f) DEFINITIONS.—As used in this section:~~

22 ~~“(1) The term ‘customer proprietary network~~
23 ~~information’ means—~~

24 ~~“(A) information which (i) relates to the~~
25 ~~quantity, technical configuration, type, destina-~~

1 tion; and amount of use of telephone exchange
2 service or interexchange telephone service sub-
3 scribed to by any customer of a telephone oper-
4 ating company; and (ii) is available to the tele-
5 phone operating company by virtue of the tele-
6 phone company-customer relationship;

7 ~~“(B)~~ information contained in the bills for
8 telephone exchange service or interexchange
9 telephone service received by a customer of a
10 telephone operating company; and

11 ~~“(C)~~ such other information concerning the
12 customer as is (i) available to the telephone op-
13 erating company by virtue of the customer’s use
14 of the company’s services; and (ii) specified as
15 within the definition of such term by such rules
16 as the Commission shall prescribe consistent
17 with the public interest;

18 except that such term does not include subscriber
19 list information.

20 ~~“(B)~~ The term ‘subscriber information’ means
21 any information—

22 ~~“(A)~~ identifying the names of subscribers
23 of a local exchange carrier and such subscrib-
24 ers’ telephone numbers; addresses; or advertis-
25 ing classifications; or any combination of such

1 names, numbers, addresses, or classifications;
2 and

3 ~~“(B) that the carrier or an affiliate has~~
4 ~~published or accepted for future publication:~~

5 ~~“(3) The term ‘aggregate information’ means~~
6 ~~collective data that relates to a group or category of~~
7 ~~services or customers, from which individual cus-~~
8 ~~tomer identities or characteristics have been re-~~
9 ~~moved.~~

10 ~~“(4) the term ‘automatic number identification’~~
11 ~~means an access signaling protocol in common use~~
12 ~~by common carriers that uses an identifying signal~~
13 ~~associated with the use of a subscriber’s telephone to~~
14 ~~provide billing information or other information to~~
15 ~~the local exchange carrier and to any other inter-~~
16 ~~connecting carriers.~~

17 ~~“(g) PROCEEDING REQUIRED.—Within 6 months~~
18 ~~after the date of enactment of this section, the Commis-~~
19 ~~sion shall commence a proceeding—~~

20 ~~“(1) to examine the impact of the integration~~
21 ~~into interconnected communications networks of~~
22 ~~wireless telephone, cable, satellite, and other tech-~~
23 ~~nologies on the privacy rights and remedies of the~~
24 ~~consumers of those technologies;~~

1 “(2) to examine the impact that the
2 globalization of such integrated communications net-
3 works has on the international dissemination of
4 consumer information and the privacy rights and
5 remedies to protect consumers;

6 “(3) to propose changes in the Commission’s
7 regulations to ensure that the effect on consumer
8 privacy rights is considered in the introduction of
9 new telecommunications services and that the pro-
10 tection of such privacy rights is incorporated as nec-
11 essary in the design of such services or the rules reg-
12 ulating such services;

13 “(4) to propose changes in the Commission’s
14 regulations as necessary to correct any defects iden-
15 tified pursuant to paragraph (1) in such rights and
16 remedies; and

17 “(5) to prepare recommendations to the Con-
18 gress for any legislative changes required to correct
19 such defects.”

20 **TITLE VII—MEDIA DIVERSITY**

21 **SEC. 701. REMOVAL OF BROADCAST STATION OWNERSHIP** 22 **RESTRICTIONS.**

23 Within one year after the date of enactment of this
24 Act, the Commission shall, after a notice and comment
25 proceeding, modify or remove such national and local own-

1 ership rules on radio and television broadcast stations as
 2 are necessary to ensure that broadcasters are able to com-
 3 pete fairly with other media providers while ensuring that
 4 the public receives information from a diversity of media
 5 sources

6 **SEC. 702. REVIEW OF STATUTORY OWNERSHIP RESTRIC-**
 7 **TION.**

8 Within one year after the date of enactment of this
 9 Act, the Commission shall review the ownership restriction
 10 in section 613(a)(1) and report to Congress whether or
 11 not such restriction continues to serve the public interest.

12 **703. REVIEW OF VIDEO NON-DUPLICATION AND SYN-**
 13 **DICATED EXCLUSIVITY RULES.**

14 Within one year after the date of enactment of this
 15 Act, the Commission shall complete a notice and comment
 16 proceeding to consider the applicability of the Commis-
 17 sion's rules regarding network non-duplication protection
 18 and syndicated exclusivity protection to other multi-
 19 channel video programming providers.

20 **SEC. 704. BROADCASTER PROVISION OF ADDITIONAL SERV-**
 21 **ICES.**

22 The Commission shall, after a notice and comment
 23 proceeding, prescribe regulations to permit broadcasters
 24 to make use of the broadcast spectrum that they are li-
 25 censed to use, for services that are related to the program-

1 ming services which they are authorized to provide. To the
 2 extent that the broadcast licensee provides commercial
 3 services using broadcast spectrum, the Commission shall
 4 be authorized to collect from each licensee an amount
 5 equivalent to the amount that would have been paid if the
 6 license to provide such service has been subjected to com-
 7 petitive bidding under section 309(j) of the Communica-
 8 tions Act of 1934 (47 U.S.C. 309(j)). Such amounts shall
 9 be collected and distributed pursuant to such section
 10 309(j). Nothing shall be construed as relieving a broad-
 11 casting station from its obligation to serve the public inter-
 12 est, convenience, and necessity.

13 **SECTION 1. SHORT TITLES; TABLE OF CONTENTS.**

14 (a) *SHORT TITLE OF ACT.*—This Act may be cited as
 15 the “Communications Act of 1994”.

16 (b) *SHORT TITLE OF SUBTITLE A OF TITLE IV.*—Sub-
 17 title A of title IV may be cited as the “Telecommunications
 18 Equipment Research and Manufacturing Competition Act
 19 of 1994”.

20 (c) *TABLE OF CONTENTS.*—

Sec. 1. Short titles; table of contents.

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TITLE I—PROTECTION AND ADVANCEMENT OF UNIVERSAL SERVICE

Sec. 101. National policy goals.

Sec. 102. Universal service protection and advancement.

Sec. 103. Public rights-of-way.

Sec. 104. Public access.

TITLE II—TELECOMMUNICATIONS

Sec. 301. Infrastructure investment.

TITLE III—REGULATORY REFORM

Sec. 301. Definitions.

Sec. 302. Regulatory reform.

Sec. 303. Implementing regulations.

Sec. 304. State and local taxation of direct broadcast satellite services.

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TITLE IV—AUTHORIZED ACTIVITIES OF BELL COMPANIES

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Sec. 421. Regulation of entry into alarm monitoring services.

Sec. 422. Regulation of electronic publishing.

Subtitle C—Information Services and Payphone Services

Sec. 431. Provision of information services.

Sec. 432. Provision of payphone services.

Subtitle D—InterLATA Telecommunications Services

Sec. 441. InterLATA telecommunications services.

Sec. 442. Jurisdiction.

TITLE V—REGULATORY PARITY AMONG PROVIDERS OF CABLE SERVICE

Sec. 501. Provision of cable service by local exchange carriers and provision of telecommunications services by cable operators.

Sec. 502. Common carrier video platform.

Sec. 503. Jurisdiction of franchising authority.

TITLE VI—CUSTOMER CONTROL OVER INFORMATION

Sec. 601. Customer information protection.

TITLE VII—MEDIA DIVERSITY

Sec. 701. Review of broadcast rules.

Sec. 702. Television broadcaster provision of additional services.

Sec. 703. Video programming accessibility.

**TITLE VIII—OBSCENE, HARASSING, AND WRONGFUL UTILIZATION
OF TELECOMMUNICATIONS FACILITIES**

- Sec. 801. Obscene or harassing use of telecommunications facilities under the Communications Act of 1934.*
Sec. 802. Obscene programming on cable television.
Sec. 803. Broadcasting obscene language on radio.
Sec. 804. Interception and disclosure of electronic communications.
Sec. 805. Additional prohibition on billing for toll-free telephone calls.
Sec. 806. Scrambling of cable channels for nonsubscribers.
Sec. 807. Cable operator refusal to carry certain programs.

**TITLE IX—ADVANCED TELECOMMUNICATIONS NETWORK
CAPABILITY**

- Sec. 901. Advanced telecommunications network capability.*

1 SEC. 2. FINDINGS.

2 *The Congress makes the following findings:*

3 (1) Congress has not passed comprehensive
4 *changes to the Communications Act of 1934 since that*
5 *Act was originally passed.*

6 (2) Congress must pass comprehensive commu-
7 *nications legislation to promote the development and*
8 *growth of the national information superhighway.*

9 (3) Changes in the telecommunications market-
10 *place have made some of the provisions of the Com-*
11 *munications Act of 1934 obsolete, unnecessary, or in-*
12 *imical to advances in communications technologies*
13 *and services.*

14 (4) Competition has emerged in many services
15 *that were previously thought to be natural monopo-*
16 *lies, but the Communications Act of 1934 requires all*
17 *carriers to be regulated as if they were monopolies.*

1 (5) *As communications markets change, govern-*
2 *ment must ensure that the public interest, conven-*
3 *ience, and necessity are preserved.*

4 (6) *The public interest requires that universal*
5 *service is protected and advanced, that new tele-*
6 *communications technologies are deployed rapidly*
7 *and equitably, and that access by schools, hospitals,*
8 *public broadcasters, libraries, and museums to ad-*
9 *vanced telecommunications services is assisted.*

10 (7) *Access to telecommunications services is fun-*
11 *damental to safety of life and participation in a*
12 *democratic society.*

13 (8) *Telecommunications networks make substan-*
14 *tial use of public rights of way in real property and*
15 *in spectrum frequencies, and carriers that make use*
16 *of such public rights of way have an obligation to*
17 *provide preferential rates to entities that provide sig-*
18 *nificant public benefits.*

19 (9) *Advanced telecommunications services can*
20 *enhance the quality of life and promote economic de-*
21 *velopment and international competitiveness.*

22 (10) *Telecommunications infrastructure develop-*
23 *ment is particularly crucial to the continued eco-*
24 *nomi c development of rural areas that may lack an*

1 *adequate industrial or service base for continued*
2 *development.*

3 *(11) Advancements in the Nation's telecommuni-*
4 *cations infrastructure will enhance the public welfare*
5 *by helping to speed the delivery of new services, such*
6 *as distance learning, remote medical sensing, and dis-*
7 *tribution of health information.*

8 *(12) Infrastructure advancement can be assisted*
9 *by joint planning and infrastructure sharing by car-*
10 *riers and other providers of network facilities and*
11 *services providing communications services.*

12 *(13) Increased competition in telecommuni-*
13 *cations services can, if subject to appropriate safe-*
14 *guards, encourage infrastructure development and*
15 *have beneficial effects on the price, universal avail-*
16 *ability, variety, and quality of telecommunications*
17 *services.*

18 *(14) The emergence of competition in tele-*
19 *communications services has already contributed, and*
20 *can be expected to continue contributing, to the mod-*
21 *ernization of the infrastructure.*

22 *(15) Competition in the long distance industry*
23 *and the communications equipment market has*
24 *brought about lower prices and higher quality serv-*
25 *ices.*

1 (16) *Competition for local communications serv-*
2 *ices has already begun to benefit the public; competi-*
3 *tive access providers have deployed thousands of miles*
4 *of optical fiber in their local networks; local exchange*
5 *carriers have been prompted by competition to accel-*
6 *erate the installation of optical fiber in their own net-*
7 *works.*

8 (17) *Electric utilities, satellite carriers, and oth-*
9 *ers are prepared to enter the local telephone market*
10 *over the next few years.*

11 (18) *A diversity of telecommunications carriers*
12 *enhances network reliability by providing redundant*
13 *capacity, thereby lessening the impact of any network*
14 *failure.*

15 (19) *Competition must proceed under rules that*
16 *protect consumers and are fair to all telecommuni-*
17 *cations carriers.*

18 (20) *All telecommunications carriers, including*
19 *competitors to the telephone companies, should con-*
20 *tribute to universal service and should make their net-*
21 *works available for interconnection by others.*

22 (21) *Removal of all State and local barriers to*
23 *entry into the telecommunications services market*
24 *and provision of interconnection are warranted after*

1 *mechanisms to protect universal service and rules are*
2 *established to ensure that competition develops.*

3 *(22) Increasing the availability of interconnec-*
4 *tion and interoperability among the facilities of tele-*
5 *communications carriers will help stimulate the devel-*
6 *opment of fair competition among providers.*

7 *(23) The portability of telecommunications num-*
8 *bers will eliminate a significant advantage held by*
9 *traditional telephone companies over competitors in*
10 *the provision of telecommunications services.*

11 *(24) Unreasonable restrictions on resale and*
12 *sharing of telecommunications networks retard the*
13 *growth of competition and restrict the diversity of*
14 *services available to the public.*

15 *(25) Additional regulatory measures are needed*
16 *to allow consumers in rural markets and noncompeti-*
17 *tive markets the opportunity to benefit from high-*
18 *quality telecommunications capabilities.*

19 *(26) Regulatory flexibility for existing providers*
20 *of telephone exchange service is necessary to allow*
21 *them to respond to competition.*

22 *(27) The Federal Communications Commission*
23 *(referred to elsewhere in this Act as the "Commis-*
24 *sion") and the States must have the flexibility to ad-*

1 *just their regulations of each provider of telecommuni-*
2 *cations services to serve the public interest.*

3 *(28) If the efforts of the private sector fail, the*
4 *Commission should take steps to ensure network reli-*
5 *ability and the development of network standards.*

6 *(29) Access to switched, digital telecommuni-*
7 *cations service for all segments of the population pro-*
8 *motes the core First Amendment goal of diverse infor-*
9 *mation sources by enabling individuals and organiza-*
10 *tions alike to publish and otherwise make information*
11 *available in electronic form.*

12 *(30) The national welfare will be enhanced if*
13 *community newspapers are provided ease of entry*
14 *into the operation of information services dissemi-*
15 *nated through electronic means primarily to cus-*
16 *tomers in the localities served by such newspapers at*
17 *rates that are not higher, on a perunit basis, than the*
18 *rates charged for such services to any other electronic*
19 *publisher.*

20 *(31) A clear national mandate is needed for full*
21 *participation in access to telecommunications net-*
22 *works and services by individuals with disabilities.*

23 *(32) The obligations of telecommunications car-*
24 *riers include the duty to furnish telecommunications*
25 *services which are designed to be fully accessible to in-*

1 *dividuals with disabilities in accordance with such*
2 *standards as the Commission may prescribe.*

3 *(33) Permitting the Bell operating companies to*
4 *enter the manufacturing market will stimulate great-*
5 *er research and development, create more jobs, and*
6 *enhance our international competitiveness.*

7 *(34) The Bell operating companies should not be*
8 *permitted to enter the market for other long distance*
9 *services until they have eliminated the barriers to*
10 *competition and interconnection.*

11 *(35) Safeguards are necessary to ensure that the*
12 *Bell operating companies do not abuse their market*
13 *power over local telephone service to discriminate*
14 *against competitors in the markets for electronic pub-*
15 *lishing, alarm services, and other information serv-*
16 *ices.*

17 *(36) Amending the legal barriers to the provision*
18 *of video programing by telephone companies in*
19 *their service areas will encourage competition to exist-*
20 *ing cable television service providers and encourage*
21 *telephone companies to upgrade their telecommuni-*
22 *cations facilities to enable them to deliver video pro-*
23 *gramming, as long as telephone companies and cable*
24 *companies are prohibited from buying or joint ven-*

1 *turing with each other in their service areas (except*
 2 *for certain rural areas).*

3 *(37) As communications technologies and serv-*
 4 *ices proliferate, consumers must be given the right to*
 5 *control information concerning their use of those tech-*
 6 *nologies and services.*

7 *(38) As competition in the media increases, the*
 8 *Commission should reexamine the need for national*
 9 *and local ownership limits on broadcast stations, con-*
 10 *sistent with the need to maintain diversity of infor-*
 11 *mation sources.*

12 **SEC. 3. EFFECT ON OTHER LAW.**

13 *(a) ANTITRUST LAWS.—Except as provided in sub-*
 14 *section (b), nothing in this Act shall be construed to modify,*
 15 *impair, or supersede the applicability of any antitrust law.*

16 *(b) MODIFICATION OF FINAL JUDGMENT.—This Act*
 17 *shall supersede the Modification of Final Judgment to the*
 18 *extent that it is inconsistent with this Act.*

19 **TITLE I—PROTECTION AND**
 20 **ADVANCEMENT OF UNIVERSAL SERVICE**

21 **SEC. 101. NATIONAL POLICY GOALS.**

22 *Section 1 of the Communications Act of 1934 (47*
 23 *U.S.C. 151) is amended by inserting “(a)” before “For the*
 24 *purpose of” and by adding at the end the following new*
 25 *subsection:*

1 “(b) *The primary objective of United States national*
2 *and international communications policy shall be to protect*
3 *the public interest. The public interest shall include the fol-*
4 *lowing:*

5 “(1) *To ensure that every person has access to*
6 *reasonably evolving telecommunications services at*
7 *just, reasonable, and affordable rates taking into ac-*
8 *count advances in telecommunications and informa-*
9 *tion technology.*

10 “(2) *To promote the development and widespread*
11 *availability of new technologies and advanced tele-*
12 *communications and information services to all per-*
13 *sons regardless of location or disability.*

14 “(3) *To ensure that consumers have access to di-*
15 *verse sources of information.*

16 “(4) *To promote learning, education, and knowl-*
17 *edge.*

18 “(5) *To ensure reasonably comparable services at*
19 *reasonably comparable rates for consumers in urban*
20 *and rural areas.*

21 “(6) *To allow each individual the opportunity to*
22 *contribute to the free flow of ideas and information*
23 *through telecommunications and information services.*

1 “(7) To maximize the contribution of commu-
2 nications and information technologies and services to
3 economic welfare and quality of life.

4 “(8) To protect each individual’s right to control
5 the use of information concerning his or her use of
6 telecommunications services.

7 “(9) To provide secure and reliable services for
8 Federal, State, and local government emergency re-
9 sponse.

10 “(10) To promote democracy.

11 “(11) To make available so far as possible, to all
12 the people of the United States, regardless of race,
13 color, national origin, income, residence in a rural or
14 urban area, or disability, high capacity two-way
15 communications networks capable of enabling users to
16 originate and receive affordable and accessible high
17 quality voice, data, graphics, video, and other types
18 of telecommunications services.”.

19 **SEC. 102. UNIVERSAL SERVICE PROTECTION AND ADVANCE-**
20 **MENT.**

21 (a) *IN GENERAL.*—Title II of the Communications Act
22 of 1934 (47 U.S.C. 201 et seq.) is amended by inserting
23 after section 201 the following new section:

1 **"SEC. 301A. UNIVERSAL SERVICE PROTECTION AND AD-**
2 **VANCEMENT.**

3 *"(a) UNIVERSAL SERVICE PRINCIPLES.—The Joint*
4 *Board and the Commission shall base policies for the preser-*
5 *vation and advancement of universal service on the follow-*
6 *ing principles:*

7 *"(1) Quality services are to be provided at just,*
8 *reasonable, and affordable rates.*

9 *"(2) Access to advanced telecommunications and*
10 *information services should be provided in all regions*
11 *of the Nation.*

12 *"(3) Consumers in rural and high cost areas*
13 *should have access to telecommunications and infor-*
14 *mation services, including interexchange services, rea-*
15 *sonably comparable to those services provided in*
16 *urban areas.*

17 *"(4) Consumers in rural and high cost areas*
18 *should have access to telecommunications and infor-*
19 *mation services at rates that are reasonably com-*
20 *parable to rates charged for similar services in urban*
21 *areas.*

22 *'(5) Citizens in rural and high cost areas should*
23 *have access to the benefits of advanced telecommuni-*
24 *cations and information services for health care, edu-*
25 *cation, economic development, and other public pur-*
26 *poses.*

1 “(6) There should be a coordinated Federal-State
2 universal service system to preserve and advance uni-
3 versal service.

4 “(7) Consumers should be permitted to exercise
5 choice among telecommunications carriers offering
6 universal service.

7 “(8) Consumers of universal service should have
8 the right to control the use of information concerning
9 their individual use of such service.

10 “(b) *DEFINITION.*—Universal service is an evolving
11 package of services which includes any telecommunications
12 and information services which the Commission, based on
13 recommendations from the public, Congress, and the Fed-
14 eral-State Joint Board periodically convened under section
15 102 of the Communications Act of 1994, and taking into
16 account advances in telecommunications and information
17 technologies and services, determines should be provided at
18 just, reasonable, and affordable rates to all Americans, in-
19 cluding those in rural and high-cost areas and those with
20 disabilities, to enable them to participate effectively in the
21 economic, academic, medical, and democratic processes of
22 the Nation. At a minimum, universal service shall include
23 access to any telecommunications and information services
24 that the Commission determines have, through the operation

1 *of market choices by customers, been subscribed to by a sub-*
2 *stantial majority of residential customers.*

3 “(c) *ALL TELECOMMUNICATIONS PROVIDERS CON-*
4 *TRIBUTE.—Every telecommunications carrier engaged in*
5 *intrastate, interstate, or foreign communication by wire or*
6 *radio shall contribute to the preservation and advancement*
7 *of universal service. The Commission may, by rule, require*
8 *any other telecommunications provider to contribute to the*
9 *preservation and advancement of universal service, if the*
10 *public interest so requires. Such contributions shall be in*
11 *the manner determined by the Commission, after referral*
12 *to the Joint Board periodically convened under section 102*
13 *of the Communications Act of 1994, and shall be on an eq-*
14 *uitable and non-discriminatory basis. The Commission and*
15 *the States shall, through the Universal Service Fund estab-*
16 *lished under subsection (d), collect only the amount of con-*
17 *tributions needed to meet the amount of support payments*
18 *reasonably necessary to preserve and advance universal*
19 *service, as defined by the Commission under subsection (b).*

20 “(d) *UNIVERSAL SERVICE FUND.—The Commission*
21 *shall establish within 18 months after the date of enactment*
22 *of the Communications Act of 1994, after referral to the*
23 *Federal-State Joint Board convened under section 102 of*
24 *that Act, a Universal Service Fund, controlled by an inde-*
25 *pendent administrator, which shall have specific and pre-*

1 *dictable Federal and State mechanisms to provide adequate*
2 *and sustainable support for maintaining and advancing*
3 *universal service. The Fund shall be the primary repository*
4 *of universal service contributions, and shall be responsible*
5 *for the collection of universal service contributions and the*
6 *distribution of support payments, based on rules established*
7 *by the Commission and the States to implement this section.*

8 “(e) *FEDERAL-STATE PARTNERSHIP.—A State may*
9 *adopt regulations to provide for additional definitions,*
10 *mechanisms, and standards to preserve and advance uni-*
11 *versal service within such State, and to implement any*
12 *Joint Board recommendation made under section 102 of the*
13 *Communications Act of 1994, provided that such State reg-*
14 *ulations are not inconsistent, or are modified to be made*
15 *not inconsistent, within one year after the effective date of*
16 *regulations prescribed by the Commission to implement this*
17 *section.*

18 “(f) *ELIGIBILITY FOR UNIVERSAL SERVICE SUP-*
19 *PORT.—Only telecommunications carriers which are des-*
20 *ignated as a carrier of last resort under section 214(d) shall*
21 *be eligible to receive support payments from the Universal*
22 *Service Fund established under this section. The Commis-*
23 *sion, after referral to the Joint Board periodically convened*
24 *under section 102 of the Communications Act of 1994, shall*
25 *establish appropriate regulatory mechanisms to ensure that*

1 *support payments accurately reflect the amount reasonably*
2 *necessary to preserve and advance universal service.*

3 “(g) *RATE ADJUSTMENTS.—The Commission shall,*
4 *after referral to the Joint Board established under section*
5 *102 of the Communications Act of 1994, establish guidelines*
6 *to be implemented by the States to allow for rate adjust-*
7 *ments by existing providers of universal service necessary*
8 *to implement the universal service rules approved by the*
9 *Commission pursuant to this section. Such guidelines shall*
10 *provide for—*

11 “(1) *the development and approval of transition*
12 *plans for up to 2 years, or 4 years in the case of*
13 *small telecommunications carriers;*

14 “(2) *compensation for services not included in*
15 *the definition of universal service by the Commission,*
16 *but required under State law; and*

17 “(3) *expedited implementation by States of any*
18 *changes required by this section.*

19 “(h) *INTEREXCHANGE SERVICE.—The Commission*
20 *shall ensure that the rates charged by providers of*
21 *interexchange telecommunications service to consumers in*
22 *rural and high cost areas are maintained at levels no higher*
23 *than those charged by each such provider to its consumers*
24 *in urban areas.*

1 “(i) *SUBSIDY OF COMPETITIVE SERVICES PROHIB-*
2 *ITED.—Telecommunications carriers shall not be permitted*
3 *to subsidize competitive services from revenues obtained*
4 *from services that are not competitive. The Commission,*
5 *after referral to the Joint Board established under section*
6 *102 of the Communications Act of 1994, shall establish cost*
7 *allocation rules and guidelines to ensure that services in-*
8 *cluded in the definition of universal service bear no more*
9 *than a reasonable share (and may, in the public interest,*
10 *bear less than or none of such share) of the joint and com-*
11 *mon costs of facilities used to provide such services.*

12 “(j) *EFFECTIVE DATE.—The provisions of subsections*
13 *(c), (d), (e), (f), and (g) of this section shall take effect 18*
14 *months after the date of enactment of the Communications*
15 *Act of 1994.”*

16 “(b) *FEDERAL-STATE JOINT BOARD ON UNIVERSAL*
17 *SERVICE.—*

18 (1) *Within one month of the date of enactment*
19 *of this Act, the Commission shall institute and refer*
20 *to a Federal-State Joint Board under section 410(c)*
21 *of the Communications Act of 1934 a proceeding to*
22 *recommend rules regarding the implementation of sec-*
23 *tion 201A of that Act, including the definition of uni-*
24 *versal service. Such Joint Board shall, after notice*
25 *and public comment, make its recommendations to*

1 *the Commission no later than nine months after the*
2 *date of enactment of this Act.*

3 (2) *The Commission shall periodically, but no*
4 *less than once every 6 years, institute and refer to a*
5 *Federal-State Joint Board under section 410(c) of the*
6 *Communications Act of 1934 a proceeding to review*
7 *the implementation of section 201A of that Act and*
8 *to make new recommendations within 9 months of the*
9 *date such Joint Board convened, if necessary, with re-*
10 *spect to any modifications or additions that may be*
11 *needed. As part of any such proceeding the Joint*
12 *Board shall review the definition of, and adequacy of*
13 *support for, universal service and shall evaluate the*
14 *extent to which universal service has been protected*
15 *and advanced.*

16 (c) *COMMISSION ACTION.—The Commission shall ini-*
17 *tiate a single proceeding to implement recommendations*
18 *from the initial Joint Board required by subsection (b) and*
19 *shall complete such proceeding within 18 months of the date*
20 *of enactment of this Act. Thereafter, the Commission shall*
21 *complete any proceeding to implement recommendations*
22 *from any further Joint Board required under subsection (b)*
23 *within 9 months of receiving such recommendations.*

24 (d) *SEPARATIONS RULES.—Nothing in the amend-*
25 *ments made by this Act to the Communications Act of 1934*

1 *shall affect the Commission's separations rules for local ex-*
2 *change or interexchange carriers in effect on the date of en-*
3 *actment of this Act.*

4 *(e) CONFORMING AMENDMENT.—Section 332(c)(1)(A)*
5 *of the Communications Act of 1934 (47 U.S.C.*
6 *332(c)(1)(A)) is amended by inserting "201A, 201B, 201C"*
7 *after "section 201,".*

8 **SEC. 103. PUBLIC RIGHTS-OF-WAY.**

9 *(a) IN GENERAL.—Title II of the Communications Act*
10 *of 1934 (47 U.S.C. 201 et seq.) is amended by inserting*
11 *after section 201A the following new section:*

12 **"SEC. 201B. PUBLIC RIGHTS-OF-WAY.**

13 *"(a) REQUIREMENT FOR RESERVED CAPACITY.—*
14 *Within 2 years after the enactment of the Communications*
15 *Act of 1994, the Commission shall promulgate regulations*
16 *to require owners and operators of telecommunications net-*
17 *works to reserve, for public uses, up to 5 percent of the ca-*
18 *capacity on such networks used for the delivery of information*
19 *services, for use by eligible entities at incremental cost based*
20 *rates for the delivery of information services to the general*
21 *public. The capacity shall be reserved in exchange for the*
22 *use of public rights-of-way accorded telecommunications*
23 *networks. The capacity shall be allocated pursuant to regu-*
24 *lations promulgated by the Commission and State authori-*
25 *ties. The owner or operator of any affected telecommuni-*

1 *cations network shall have no control over, and no liability*
2 *for, the communications content of such capacity.*

3 *“(b) RESERVATION OF CAPACITY.—*

4 *“(1) AMOUNT OF CAPACITY TO BE RESERVED.—*

5 *The Commission shall determine on the record, after*
6 *notice and opportunity for comment, the appropriate*
7 *amount of capacity to be reserved on each tele-*
8 *communications network. In making such a deter-*
9 *mination, the Commission shall consider the type of*
10 *technology used by the network, barriers to accessing*
11 *the network, existing set-aside requirements for broad-*
12 *cast spectrum, existing requirements under sections*
13 *335, 611, and 615, the public’s right to receive ade-*
14 *quate compensation for use of public rights-of-way,*
15 *and such other factors as the Commission considers*
16 *appropriate.*

17 *“(2) TEMPORARY REDUCTIONS.—If the Commis-*
18 *sion determines that any portion of the amount of ca-*
19 *capacity that a telecommunications network is required*
20 *to reserve under this section will go unused, the Com-*
21 *mission may temporarily reduce the reserved amount*
22 *by such unused portion. During the period when the*
23 *reserved capacity of a telecommunications network is*
24 *temporarily reduced, an eligible entity described in*
25 *subsection (c) may request use of any of the portion*

1 *by which such reserved capacity was reduced and the*
2 *Commission shall act promptly upon such request.*

3 “(3) *QUALITY.—The quality of telecommuni-*
4 *cations capacity reserved for public uses under this*
5 *section shall be equivalent to the best quality of avail-*
6 *able capacity of the affected telecommunications net-*
7 *work in all respects, including accessibility, channel*
8 *positioning, interconnection access rights, network ca-*
9 *pabilities, and such other factors as the Commission*
10 *considers appropriate.*

11 “(4) *ESTABLISHMENT OF RATES FOR ELIGIBLE*
12 *ENTITIES ON OPEN SYSTEMS.—If the Commission de-*
13 *termines on the record after notice and opportunity*
14 *for comment that a telecommunications network has*
15 *clearly sufficient open architecture, capacity, and*
16 *nondiscriminatory access terms to ensure access by el-*
17 *igible entities described in subsection (c), the Commis-*
18 *sion shall determine that the obligation to reserve a*
19 *certain amount of capacity imposed under this sub-*
20 *section is not applicable. This paragraph shall not af-*
21 *fect the requirement to make capacity available to eli-*
22 *gible entities at incremental cost based rates.*

23 “(c) *ALLOCATION OF CAPACITY.—*

1 “(1) *ELIGIBLE ENTITIES.*—*The following entities*
2 *are eligible for access to the capacity reserved under*
3 *this section:*

4 “(A) *Elementary and secondary schools as*
5 *defined in section 1471 of the Elementary and*
6 *Secondary Education Act of 1965 (20 U.S.C.*
7 *2891), and institutions of higher education as*
8 *defined in section 1201 of the Higher Education*
9 *Act of 1965 (20 U.S.C. 2891).*

10 “(B) *Public telecommunications entities.*

11 “(C) *Public and nonprofit libraries.*

12 “(D) *Nonprofit organizations described in*
13 *section 501(c)(3) of the Internal Revenue Code of*
14 *1986 that are formed for the purpose of provid-*
15 *ing nondiscriminatory public access to non-*
16 *commercial educational, informational, cultural,*
17 *civic, or charitable services.*

18 “(2) *TERMS AND CONDITIONS OF ACCESS.*—*Such*
19 *eligible entities shall have access to such capacity for*
20 *the provision of educational, informational, cultural,*
21 *civic, or charitable services directly to the general*
22 *public. Telecommunications capacity allocated pursu-*
23 *ant to this section shall not be sold, resold, or other-*
24 *wise transferred in consideration for money or any*
25 *other thing of value.*

1 “(3) *ALLOCATION.*—*The Commission and the*
2 *States shall determine appropriate mechanisms and*
3 *guidelines for allocating such capacity.*

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

5 “(1) *The term ‘telecommunications network’*
6 *means any group of facilities that has been granted*
7 *the right to occupy any public right-of-way and that*
8 *is used to transmit or carry information services, in-*
9 *cluding video services, to the general public, and that*
10 *provides the consumer or end-user the opportunity to*
11 *choose from a range of information services that are*
12 *available contemporaneously to the general public.*
13 *Neither terrestrial radio or television broadcast sta-*
14 *tions licensed under title III, nor cable systems subject*
15 *to sections 611 and 615, shall be considered to be tele-*
16 *communications networks.*

17 “(2) *The term ‘public right-of-way’ means any*
18 *right-of-way, including use of the electromagnetic*
19 *spectrum, that is held or otherwise controlled by Fed-*
20 *eral, State, or local governments on behalf of the gen-*
21 *eral public, and is used in the transmission or car-*
22 *riage of telecommunications.*

23 “(3) *The term ‘incremental cost based rates’*
24 *means the lowest rate that is consistent with the long*
25 *run incremental cost or out-of-pocket cost, whichever*

1 *is lower, of telecommunications networks in offering*
 2 *technically similar commercial services. These rates*
 3 *shall be no more than the directly attributable cost of*
 4 *the service, and in no event shall they contain a con-*
 5 *tribution to coverage of the joint or common costs of*
 6 *the provider.”.*

7 **SEC. 104. PUBLIC ACCESS.**

8 *(a) AMENDMENT OF COMMUNICATIONS ACT.—Title II*
 9 *of the Communications Act of 1934 (47 U.S.C. 201 et seq.),*
 10 *as amended by this Act, is further amended by inserting*
 11 *after section 201B the following new section:*

12 **“SEC. 201C. PUBLIC ACCESS.**

13 *“(a) PUBLIC FACILITIES.—*

14 *“(1) A telecommunications carrier designated as*
 15 *a carrier of last resort under section 214(d) shall,*
 16 *upon a bona fide request, provide universal service to*
 17 *any public or non-profit—*

18 *“(A) elementary and secondary school, as*
 19 *defined in section 1471 of the Elementary and*
 20 *Secondary Education Act (20 U.S.C. 1141);*

21 *“(B) library;*

22 *“(C) health care facility;*

23 *“(D) museum (including a zoo or aquar-*
 24 *ium);*

25 *“(E) public broadcast station; and*

1 *any member of such other classes of public institu-*
2 *tional telecommunications users as the Commission*
3 *may identify, based on the public interest, that con-*
4 *tribute in a significant way to the public's quality of*
5 *life.*

6 *“(2) The Commission may, in the public inter-*
7 *est, provide for separate definitions of universal serv-*
8 *ice under subsection 201A(c) for application only to*
9 *those public institutional telecommunications users to*
10 *which this section applies.*

11 *“(3) The Commission shall include the amount*
12 *of support payments reasonably necessary to provide*
13 *universal service to public institutional telecommuni-*
14 *cations users to which this section applies in the uni-*
15 *versal service support mechanisms required under sec-*
16 *tion 201A.*

17 *“(b) **ADVANCED SERVICES.**—The Commission shall es-*
18 *tablish rules—*

19 *“(1) to enhance, to the extent technically feasible*
20 *and economically reasonable, the availability of ad-*
21 *vanced telecommunications and information services*
22 *to all public and non-profit elementary and second-*
23 *ary school classrooms, health care facilities, libraries,*
24 *museums (including zoos and aquariums), public*
25 *broadcast stations, and any other class of public in-*

1 *stitutional telecommunications users identified by the*
2 *Commission under subsection (a);*

3 *“(2) to require preferential rates under sub-*
4 *section (c);*

5 *“(3) to ensure that appropriate functional re-*
6 *quirements or performance standards, or both, includ-*
7 *ing interoperability standards, are established for*
8 *telecommunications carriers that connect such public*
9 *institutional telecommunications users with the pub-*
10 *lic switched network;*

11 *“(4) to define the circumstances under which a*
12 *telecommunications carrier may be required to con-*
13 *nect its network to such public institutional tele-*
14 *communications users; and*

15 *“(5) to address such other matters as the Com-*
16 *mission may determine.*

17 *“(c) PREFERENTIAL RATES.—Notwithstanding sec-*
18 *tions 202 and 230, the rules promulgated under subsection*
19 *(b) shall require telecommunications carriers to offer spe-*
20 *cific telecommunications and information services, includ-*
21 *ing advanced services, at a preferential rate to some or all*
22 *of the public institutional telecommunications users to*
23 *which this section applies.*

24 *“(d) RESTRICTION.—Public institutional tele-*
25 *communications users receiving universal service or services*

1 *at a preferential rate under this section shall be prohibited*
 2 *from reselling such service, or from aggregating tele-*
 3 *communications services under section 226.”.*

4 (b) *EFFECTIVE DATE.*—*The amendments made by sub-*
 5 *section (a) shall take effect 2 years after the date of enact-*
 6 *ment of this Act.*

7 (c) *RULEMAKING.*—*The Commission shall complete*
 8 *and rulemaking and prescribe regulations to implement the*
 9 *provisions of sections 201B and 201C of the Communica-*
 10 *tions Act of 1934 within 2 years after the date of enactment*
 11 *of this Act.*

12 **TITLE II—TELECOMMUNICATIONS**
 13 **INVESTMENT**

14 **SEC. 301. INFRASTRUCTURE INVESTMENT.**

15 (a) *IN GENERAL.*—*Title II of the Communications Act*
 16 *of 1934 (47 U.S.C. 201 et seq.) is amended by inserting*
 17 *after section 228 the following new section:*

18 **“SEC. 239. INFRASTRUCTURE INVESTMENT.**

19 **“(a) RURAL MARKETS AND NONCOMPETITIVE MAR-**
 20 **MARKETS.**—*To the extent possible, consumers in rural markets*
 21 *and noncompetitive markets shall have access to high qual-*
 22 *ity interoperable telecommunications network facilities and*
 23 *capabilities which—*

24 **“(1) provide subscribers with sufficient inter-**
 25 **active bi-directional network capacity to allow access**

1 to information services that provide a combination of
2 voice, data, image, and video; and

3 “(2) are widely available at just, reasonable, af-
4 fordable, and nondiscriminatory rates.

5 “(b) **FULL EFFECTUATION.**—The Commission shall
6 have the authority to pre-empt any State or local statute
7 or regulation, or other State or local legal requirement, ex-
8 cept as provided in section 230(k), that prevents the full
9 effectuation of the goal set forth in subsection (a).

10 “(c) **TELECOMMUNICATIONS NETWORK STANDARDS**
11 **AND PLANNING.**—

12 “(1) **TELECOMMUNICATIONS NETWORK STAND-**
13 **ARDS.**—

14 “(A) **INTERCONNECTION AND INTEROPER-**
15 **ABILITY STANDARDS.**—The Commission shall en-
16 courage telecommunications carriers and tele-
17 communications equipment manufacturers to de-
18 velop standards to ensure interconnection, inter-
19 operability, and reliability of telecommuni-
20 cations networks.

21 “(B) **INDUSTRY ASSISTANCE.**—The Commis-
22 sion shall, when necessary, establish deadlines,
23 create incentives, or use other mechanisms to as-
24 sist the industry to develop and implement such
25 standards.

1 “(C) *COMMISSION AUTHORITY TO ESTAB-*
2 *LISH STANDARDS.—The Commission may, after*
3 *notice and opportunity for comment, establish*
4 *standards only if industry participants fail to*
5 *reach agreement.*

6 “(2) *NETWORK PLANNING.—*

7 “(A) *REGULATIONS ON JOINT ACTION.—The*
8 *Commission shall prescribe regulations that per-*
9 *mit joint telecommunications network planning,*
10 *design, and implementation among all tele-*
11 *communications carriers, cable television compa-*
12 *nies, railroads, and electric, gas, water, and*
13 *other utilities in the same geographic area.*

14 “(B) *INFORMATION DISCLOSURE PROCE-*
15 *DURES.—The Commission and the States shall*
16 *prescribe regulations establishing procedures to*
17 *ensure that—*

18 “(i) *telecommunications carriers on*
19 *reasonable request make available timely in-*
20 *formation to other such carriers, informa-*
21 *tion service providers, other infrastructure*
22 *providers, and other users in the same geo-*
23 *graphic area about the deployment of tele-*
24 *communications equipment, including soft-*
25 *ware integral to such telecommunications*

1 *equipment, including upgrades that will*
2 *materially affect the ability of a tele-*
3 *communications carrier, information serv-*
4 *ice provider, infrastructure provider, or*
5 *other user to interconnect or interoperate in*
6 *the same geographic area;*

7 *“(ii) telecommunications carriers are*
8 *not required to share information required*
9 *under clause (i) with anyone, including*
10 *carriers with whom they directly compete,*
11 *except as may be necessary to meet the*
12 *interconnection and interoperability re-*
13 *quirements set forth in this paragraph; and*

14 *“(iii) the recipient of any information*
15 *described in clause (i) uses it only for its*
16 *own interconnection and interoperability.*

17 **“(C) DEFINITION OF INFRASTRUCTURE PRO-**
18 **VIDERS.—***For purposes of this section, the term*
19 *‘infrastructure provider’ means any entity, such*
20 *as a railroad, electric, gas, water, or other util-*
21 *ity, that builds and maintains an infrastructure*
22 *and makes it available by lease or other arrange-*
23 *ment to one or more telecommunications car-*
24 *riers, but which is not itself a telecommuni-*
25 *cations carrier.*

1 “(3) *INFRASTRUCTURE SHARING.*—

2 “(A) *REGULATIONS REQUIRED.*—*The Com-*
3 *mission shall prescribe, within one year after the*
4 *date of enactment of the Communications Act of*
5 *1994, regulations that require local exchange car-*
6 *riers that were subject to Part 69 of the Commis-*
7 *sion’s rules on or before that date to make avail-*
8 *able to any qualifying carrier such public*
9 *switched network infrastructure, technology, in-*
10 *formation, and telecommunications facilities and*
11 *functions as may be requested by such qualifying*
12 *carrier for the purpose of enabling such qualify-*
13 *ing carrier to provide telecommunications serv-*
14 *ices, or to provide access to information services,*
15 *in the service area in which such qualifying car-*
16 *rier has requested and obtained designation as a*
17 *carrier of last resort under section 214(d).*

18 “(B) *QUALIFYING CARRIER.*—*For the pur-*
19 *poses of this paragraph, the term ‘qualifying car-*
20 *rier’ means a telecommunications carrier*
21 *which—*

22 “(i) *lacks economies of scale or scope,*
23 *as determined in accordance with regula-*
24 *tions prescribed by the Commission pursu-*
25 *ant to this paragraph; and*

1 “(ii) is a common carrier which offers
2 telephone exchange service, telephone ex-
3 change access service, and any other service
4 that is within the definition of universal
5 service, to all consumers without preference
6 throughout the service area for which such
7 carrier has been designated as a carrier of
8 last resort under section 214(d).

9 “(C) TERMS AND CONDITIONS OF REGULA-
10 TIONS.—The regulations prescribed by the Com-
11 mission pursuant to this paragraph shall—

12 “(i) not require a local exchange car-
13 rier to which this paragraph applies to take
14 any action that is economically unreason-
15 able or that is contrary to the public inter-
16 est;

17 “(ii) permit, but shall not require, the
18 joint ownership or operation of public
19 switched network infrastructure and services
20 by or among such local exchange carrier
21 and a qualifying carrier;

22 “(iii) ensure that such local exchange
23 carrier shall not be treated by the Commis-
24 sion or any State commission as a common
25 carrier for hire or as offering common car-

1 *rier services with respect to any infrastruc-*
2 *ture, technology, information, facilities, or*
3 *functions made available to a qualifying*
4 *carrier in accordance with regulations is-*
5 *ssued pursuant to this paragraph;*

6 *“(iv) ensure that such local exchange*
7 *carrier makes such infrastructure, tech-*
8 *nology, information, facilities, or functions*
9 *available to a qualifying carrier on just and*
10 *reasonable terms and conditions that per-*
11 *mits such qualifying carrier to fully benefit*
12 *from the economies of scale and scope of*
13 *such local exchange carrier, as determined*
14 *in accordance with guidelines prescribed by*
15 *the Commission in regulations issued pur-*
16 *suant to this paragraph;*

17 *“(v) establish conditions that promote*
18 *cooperation between local exchange carriers*
19 *to which this paragraph applies and quali-*
20 *fying carriers;*

21 *“(vi) not require a local exchange car-*
22 *rier to which this paragraph applies to en-*
23 *gage in any infrastructure sharing agree-*
24 *ment for any services or access which are to*
25 *be provided or offered to consumers by the*

1 *qualifying carrier in such local exchange*
2 *carrier's telephone exchange service area;*
3 *and*

4 “(vii) *require that such local exchange*
5 *carrier file with the Commission or State*
6 *commission, for public inspection, any tar-*
7 *iffs, contracts, or other arrangements show-*
8 *ing the rates, terms and conditions under*
9 *which such carrier is making available pub-*
10 *lic switched network infrastructure and*
11 *functions under this paragraph.*

12 “(D) *INFORMATION CONCERNING DEPLOY-*
13 *MENT OF NEW SERVICES AND EQUIPMENT.—A*
14 *local exchange carrier to which this paragraph*
15 *applies that has entered into an infrastructure*
16 *sharing agreement under this paragraph shall*
17 *provide to each party to such agreement timely*
18 *information on the planned deployment of tele-*
19 *communications services and equipment, includ-*
20 *ing any software or upgrades of software integral*
21 *to the use or operation of such telecommuni-*
22 *cations equipment.*

23 “(d) *DISABILITY ACCESS.—*

24 “(1) *NETWORK SERVICES.—Telecommunications*
25 *carriers shall ensure that advances in network serv-*

1 *ices deployed by them are accessible and usable by in-*
2 *dividuals with disabilities, including individuals with*
3 *functional limitations of hearing, vision, movement,*
4 *manipulation, speech, or interpretation of informa-*
5 *tion, unless the cost of making the services accessible*
6 *and usable would result in an undue burden or ad-*
7 *verse competitive impact. The carriers shall seek to*
8 *permit the use of both standard and special equip-*
9 *ment, and seek to minimize the need of individuals to*
10 *acquire additional devices beyond those used by the*
11 *general public to obtain such access.*

12 *“(2) INQUIRY.—The Commission shall, within 2*
13 *years after the date of enactment of the Communica-*
14 *tions Act of 1994, complete an inquiry into policies,*
15 *practices, and regulations which address the access*
16 *needs of individuals with speech disabilities, includ-*
17 *ing those who use electronic speechmaking devices and*
18 *those who use telephone relay services. The inquiry*
19 *will develop recommendations for more effective ways*
20 *to incorporate current specialized consumer product*
21 *equipment devices into the nation’s telecommuni-*
22 *cations infrastructure in addition to addressing the*
23 *speech-to-speech translation needs of individuals with*
24 *significant voice disabilities.*

1 “(3) *COMPATIBILITY.*—Whenever an undue bur-
2 den or adverse competitive impact would result from
3 the requirements in paragraphs (1) and (2), the man-
4 ufacturer that designs, develops, or fabricates the
5 equipment or network service shall ensure that such
6 equipment or service is compatible with existing pe-
7 ripheral devices or specialized customer premises
8 equipment commonly used by persons with disabil-
9 ities to achieve access, unless doing so would result in
10 an undue burden or adverse competitive impact.

11 “(4) *DEFINITIONS.*—As used in this section:

12 “(A) *UNDUE BURDEN.*—The term ‘undue
13 burden’ means significant difficulty or expense.
14 In determining whether the activity necessary to
15 comply with the requirements of paragraphs (1),
16 (2), and (3) would result in an undue burden,
17 the factors to be considered include—

18 “(i) the nature and cost of the activity;

19 “(ii) the impact on the operation of the
20 facility involved in the manufacture of the
21 equipment or the deployment of the network
22 service;

1 “(iii) the financial resources of the tele-
2 communications equipment manufacturer
3 or telecommunications carrier;

4 “(iv) the financial resources of the
5 manufacturing affiliate of a Bell operating
6 company in the case of manufacturing of
7 equipment, as long as applicable regulatory
8 rules prohibit cross-subsidization of equip-
9 ment manufacturing with revenues from
10 regulated telecommunications service or
11 when the manufacturing activities are con-
12 ducted in a separate subsidiary; and

13 “(v) the type of operations of the tele-
14 communications equipment manufacturer
15 or telecommunications carrier.

16 “(B) ADVERSE COMPETITIVE IMPACT.—In
17 determining whether the activity necessary to
18 comply with the requirements of paragraphs (1),
19 (2), and (3) would result in adverse competitive
20 impact, the following factors shall be considered:

21 “(i) Whether such activity would raise
22 the cost of the equipment or network service
23 in question beyond the level at which there
24 would be sufficient consumer demand by the

1 *general population to make the equipment*
2 *or network service profitable.*

3 “(ii) *Whether such activity would, with*
4 *respect to the equipment or network service*
5 *in question, put the telecommunications*
6 *equipment manufacturer or telecommuni-*
7 *cations carrier at a competitive disadvan-*
8 *tage. This factor may be considered so long*
9 *as competing telecommunications equipment*
10 *manufacturers and telecommunications car-*
11 *riers are not held to the same obligation*
12 *with respect to access by persons with dis-*
13 *abilities.*

14 “(C) *ACTIVITY.—For the purposes of this*
15 *paragraph, the term ‘activity’ includes—*

16 “(i) *the research, design, development,*
17 *deployment, and fabrication activities nec-*
18 *essary to comply with the requirements of*
19 *this section; and*

20 “(ii) *the acquisition of the related ma-*
21 *terials and equipment components.*

22 “(5) *COORDINATION IN DEVELOPING REGULA-*
23 *TIONS.—Throughout the process of developing regula-*
24 *tions required by this paragraph, the Commission*
25 *shall coordinate and consult with representatives of*

1 *individuals with disabilities and interested equipment*
2 *and service providers to ensure their concerns and in-*
3 *terests are given full consideration in such process.*

4 “(6) *EFFECTIVE DATE.*—*The regulations re-*
5 *quired by this subsection shall become effective 18*
6 *months after the date of enactment of the Commu-*
7 *nications Act of 1994.*

8 “(e) *ANNUAL SURVEY.*—*The Commission shall collect*
9 *information regarding the deployment of technologies on a*
10 *State-by-State basis and make such information available*
11 *to the public.*

12 “(f) *COST ALLOCATION REGULATIONS.*—*Notwith-*
13 *standing any other time period, the Commission shall with-*
14 *in 6 months adopt regulations, consistent with the need to*
15 *protect universal service, to allocate a local exchange car-*
16 *rier’s costs of deploying broadband telecommunications fa-*
17 *cilities between local exchange service and competitive serv-*
18 *ices.*

19 “(g) *NONDISCRIMINATORY ACCESS.*—*In considering*
20 *any application under section 214, the Commission shall*
21 *ensure that access to such applicant’s telecommunications*
22 *services is not denied to any group of potential subscribers*
23 *because of their race, gender, national origin, income, age,*
24 *or residence in a rural or high-cost area.”.*

1 **(b) NETWORK PLANNING AND INFRASTRUCTURE**
 2 **SHARING RULES.**—*The Commission shall complete a rule-*
 3 *making proceeding and adopt rules to implement sections*
 4 *229(c) (2) and (3) of the Communications Act of 1934 with-*
 5 *in 1 year after the date of enactment of this Act.*

6 **(c) DISABILITY ACCESS RULES.**—*The Commission*
 7 *shall complete a rulemaking proceeding and adopt rules to*
 8 *implement section 229(d) of the Communications Act of*
 9 *1934 within 2 years after the date of enactment of this Act.*

10 **TITLE III—REGULATORY REFORM**

11 **SEC. 301. DEFINITIONS.**

12 *Section 3 of the Communications Act of 1934 (47*
 13 *U.S.C. 153) is amended by adding at the end the following*
 14 *new subsections:*

15 “(hh) ‘Local exchange carrier’ means a provider of
 16 telephone exchange service that the Commission determines
 17 has market power. Such term does not include a person en-
 18 gaged in the provision of a commercial mobile service under
 19 section 332(c), except to the extent that the Commission
 20 finds that such service as provided by such person in a
 21 State is a replacement for a substantial portion of the
 22 wireline telephone exchange service within such State.

23 “(ii) ‘Telecommunications’ means the transmission,
 24 between or among points specified by the user, of informa-
 25 tion of the user’s choosing, including voice, data, image,

1 *graphics, or video, without change in the form or content*
2 *of the information, as sent and received, by means of elec'ro-*
3 *magnetic transmission, with or without benefit of any*
4 *closed transmission medium.*

5 “(jj) ‘Telecommunications service’ means the direct of-
6 *fering of telecommunications for profit to the general public*
7 *or to such classes of users as to be effectively available to*
8 *the general public regardless of the facilities used to trans-*
9 *mit such telecommunications services. Such term does not*
10 *include information services or cable services as defined*
11 *under section 602.*

12 “(kk) ‘Telecommunications carrier’ means any pro-
13 *vider of telecommunications services, except that such term*
14 *does not include hotels, motels, hospitals, and other*
15 *aggregators of telecommunications services.*

16 “(ll) ‘Telecommunications number portability’ means
17 *the ability of users of telecommunications services to retain,*
18 *at the same location, existing telecommunications numbers*
19 *without impairment of quality, reliability, or convenience*
20 *when switching from one telecommunications carrier to an-*
21 *other.*

22 “(mm) ‘Information service’ means the offering of serv-
23 *ices which employ computer processing applications that*
24 *act on the format, content, code, protocol, or similar aspects*
25 *of the subscriber’s transmitted information, provide the sub-*

1 *scriber additional, different, or restructured information, or*
 2 *involve subscriber interaction with stored information.*

3 *“(nn) ‘Rural telephone company’ means a tele-*
 4 *communications carrier operating entity to the extent that*
 5 *such entity provides telephone exchange service, including*
 6 *access service subject to part 69 of the Commission’s rules*
 7 *(47 C.F.R. 69.1 et seq.), to—*

8 *“(1) any service area that does not include*
 9 *either—*

10 *“(A) any incorporated place of 10,000 in-*
 11 *habitants or more, or any part thereof, based on*
 12 *the most recent population statistics of the Bu-*
 13 *reau of the Census; or*

14 *“(B) any territory, incorporated or unin-*
 15 *corporated, included in an urbanized area, as*
 16 *defined by the Bureau of the Census as of August*
 17 *10, 1993; or*

18 *“(2) fewer than 100,000 access lines within a*
 19 *State.*

20 *“(oo) ‘Service area’ means a geographic area estab-*
 21 *lished by the Commission and the States for the purpose*
 22 *of determining universal service obligations and support*
 23 *mechanisms. In establishing a service area, the Commission*
 24 *and the States shall at a minimum consider—*

1 “(1) the principles and requirements of section
2 201A;

3 “(2) the nature of Federal and State universal
4 service support mechanisms;

5 “(3) the historic area of service by a company
6 and the economics of such company’s operations; and

7 “(4) the interest of consumers and competition
8 in such area.

9 *In the case of an area served by a rural telephone company,*
10 *‘service area’ shall mean such company’s ‘study area’ unless*
11 *and until the Commission and the States, after taking into*
12 *account recommendations of a Federal-State Joint Board*
13 *instituted under section 410(c), establish a different defini-*
14 *tion of service area for such company.”.*

15 **SEC. 302. REGULATORY REFORM.**

16 **(a) AMENDMENT OF COMMUNICATIONS ACT.—Title II**
17 *of the Communications Act of 1934 (47 U.S.C. 201 et seq.)*
18 *is amended by inserting after section 229 the following new*
19 *section:*

20 **“SEC. 330. TELECOMMUNICATIONS COMPETITION.**

21 **“(a) REMOVAL OF BARRIERS TO ENTRY.—**

22 *“(1) Except as provided in subsection (k), one*
23 *year after the date of enactment of the Communica-*
24 *tions Act of 1994, no State or local statute or regula-*
25 *tion, or other State or local legal requirement, may*

1 *prohibit or have the effect of prohibiting the ability*
2 *of any entity to provide any interstate or intrastate*
3 *telecommunications services.*

4 *“(2) No local government may, after 1 year after*
5 *the date of enactment of the Communications Act of*
6 *1994, impose or collect any franchise, license, permit,*
7 *or right-of-way fee or any assessment, rental, or any*
8 *other charge or equivalent thereof as a condition for*
9 *operating in the locality or for obtaining access to, oc-*
10 *cupying, or crossing public rights-of-way from any*
11 *telecommunications carrier that distinguishes between*
12 *or among telecommunications carriers, including the*
13 *local exchange carrier. For purposes of this para-*
14 *graph, a franchise, license, permit, or right-of-way fee*
15 *or an assessment, rental, or any other charge or*
16 *equivalent thereof does not include any imposition of*
17 *general applicability which does not distinguish be-*
18 *tween or among telecommunications carriers, or any*
19 *tax.*

20 *“(3) Nothing in this subsection shall affect the*
21 *application of section 332(c)(3) to commercial mobile*
22 *services providers.*

23 *“(4) If, after notice and an opportunity for pub-*
24 *lic comment, the Commission determines that a State*
25 *or local government has permitted or imposed any*

1 *statute, regulation, or legal requirement that violates*
2 *or is inconsistent with this subsection, the Commis-*
3 *sion shall immediately preempt the enforcement of*
4 *such statute, regulation, or legal requirement to the*
5 *extent necessary to correct such violation or inconsis-*
6 *ency.*

7 *“(5) Nothing in this section restricts the ability*
8 *of any State or local government entity to make its*
9 *telecommunications facilities available to carriers so*
10 *long as making such facilities available is not a tele-*
11 *communications service.*

12 *“(b) REGULATORY AUTHORITY.—Nothing in this sec-*
13 *tion shall affect the ability of State officials to impose, on*
14 *a competitively neutral basis and consistent with section*
15 *201A, requirements necessary to preserve and advance uni-*
16 *versal service, protect the public safety and welfare, ensure*
17 *the continued quality of telecommunications services, and*
18 *safeguard the rights of consumers.*

19 *“(c) OBLIGATIONS OF TELECOMMUNICATIONS CAR-*
20 *RIERS.—*

21 *“(1) To the extent that they provide tele-*
22 *communications services, telecommunications carriers*
23 *shall be deemed common carriers under this Act. The*
24 *Commission shall prescribe regulations consistent*
25 *with its determinations under subsection (g)(1) to re-*

1 *quire all telecommunications carriers, upon bona fide*
2 *request, to provide to any provider of telecommuni-*
3 *cations equipment or any entity seeking to provide*
4 *telecommunications services or information services,*
5 *on reasonable terms and conditions and at rates that*
6 *are just and reasonable and not unjustly or unreason-*
7 *ably discriminatory—*

8 *“(A) interconnection to the carrier’s tele-*
9 *communications facilities and services at any*
10 *technically and economically feasible point with-*
11 *in the carrier’s network;*

12 *“(B) nondiscriminatory access on an*
13 *unbundled basis where technically and economi-*
14 *cally feasible to any of the carrier’s telecommuni-*
15 *cations facilities and information, including*
16 *databases and signaling, necessary to the trans-*
17 *mission and routing of any telecommunications*
18 *service or information service and the interoper-*
19 *ability of both carriers’ networks;*

20 *“(C) nondiscriminatory access, where tech-*
21 *nically and economically feasible, to the poles,*
22 *ducts, conduits, and rights of way owned or con-*
23 *trolled by the carrier;*

24 *“(D) nondiscriminatory access where tech-*
25 *nically and economically feasible to the network*

1 *functions and services of the carrier's tele-*
2 *communications network, which shall be offered*
3 *on an unbundled basis;*

4 *“(E) telecommunications services and net-*
5 *work functions on an unbundled basis without*
6 *any unreasonable conditions or restrictions on*
7 *the resale or sharing of those services or func-*
8 *tions, including both origination and termi-*
9 *nation of telecommunications services (for pur-*
10 *poses of this subparagraph, it shall not be*
11 *deemed an unreasonable condition for a tele-*
12 *communications carrier, consistent with the*
13 *Commission's rules and State regulations, to*
14 *limit the resale of services included in the defini-*
15 *tion of universal service to another telecommuni-*
16 *cations carrier who intends to resell that service*
17 *to a category of customers different from the cat-*
18 *egory of customers being offered that universal*
19 *service by such carrier, nor shall it be deemed*
20 *unreasonable to provide services included in the*
21 *definition of universal service to another tele-*
22 *communications carrier for resale at rates which*
23 *reflect the actual cost of providing such services,*
24 *exclusive of any universal service support re-*

1 *ceived by such carrier in accordance with regula-*
2 *tions promulgated under section 201A);*

3 *“(F) local dialing parity, as soon as tech-*
4 *nically and economically feasible, in a manner*
5 *that permits consumers to be able to dial the*
6 *same number of digits when using any tele-*
7 *communications carrier providing telephone ex-*
8 *change service or exchange access service through*
9 *resale in a market, and in a manner that per-*
10 *mits all such carriers to have nondiscriminatory*
11 *access to telephone numbers, operator services,*
12 *directory assistance, directory listing, and no*
13 *unreasonable dialing delays; and*

14 *“(G) telecommunications number port-*
15 *ability, as administered by an impartial entity,*
16 *as soon as technically and economically feasible.*

17 *“(2) A State may not, with respect to the provi-*
18 *sion of any intrastate telecommunications service, im-*
19 *pose upon any telecommunications carrier any regu-*
20 *latory requirement concerning the provision of intra-*
21 *state services inconsistent with the requirements im-*
22 *posed by the Commission on such carrier with respect*
23 *to the provision of interstate services. Nothing in this*
24 *subsection precludes a State from imposing require-*
25 *ments on a carrier for intrastate services that are nec-*

1 *essary to further competition for local exchange or ex-*
2 *change access services, including intraLATA toll dial-*
3 *ing parity, as long as the State's actions are not in-*
4 *consistent with the Commission's regulations.*

5 *“(d) CONSUMER INFORMATION.—As competition for*
6 *telecommunications services develops, the Commission and*
7 *State regulatory authorities shall ensure that consumers are*
8 *given the information necessary to make informed choices*
9 *among their telecommunications alternatives. Any tele-*
10 *communications carrier that provides billing and collection*
11 *for any information service shall display any charges for*
12 *information services in a part of the subscriber's bill that*
13 *is separate from charges for telecommunications services.*

14 *“(e) PRESUBSCRIPTION AND BALLOTING.—The Com-*
15 *mission shall prescribe regulations to ensure that consum-*
16 *ers, as soon as practicable, have the opportunity to select*
17 *their local exchange carrier by means of a balloting and*
18 *presubscription process, and that all carriers providing any*
19 *such service in each market bear a reasonable share of the*
20 *costs of their respective balloting processes.*

21 *“(f) COMPENSATION AGREEMENTS.—The Commission*
22 *and the States shall adopt regulations to ensure that tele-*
23 *communications carriers compensate each other for termi-*
24 *nation of telecommunications services on each other's net-*
25 *works.*

1 “(g) *REGULATORY FLEXIBILITY IN COMPETITIVE MAR-*
2 *KETS.—*

3 “(1) *REGULATORY FLEXIBILITY.—The Commis-*
4 *sion may forbear from applying any regulation or*
5 *any provision of this title (except for sections 201,*
6 *201A, 201B, 201C, 202, 208, and 230(c)(1)(G)) to a*
7 *telecommunications carrier or service, or class of car-*
8 *riers or services, in any or some of its or their geo-*
9 *graphic markets only if the Commission determines*
10 *that—*

11 “(A) *enforcement of such regulation or pro-*
12 *vision is not necessary to ensure that the charges,*
13 *practices, classifications, or regulations by, for,*
14 *or in connection with that carrier or service are*
15 *just and reasonable and are not unjustly or un-*
16 *reasonably discriminatory;*

17 “(B) *enforcement of such regulation or pro-*
18 *vision is not necessary for the protection of con-*
19 *sumers; and*

20 “(C) *forbearance from applying such regu-*
21 *lation or provision is consistent with the public*
22 *interest.*

23 *In making the determination under subparagraph*
24 *(C), the Commission shall consider whether forbear-*
25 *ance from enforcing the regulation or provision will*

1 *promote competitive market conditions, including the*
2 *extent to which such forbearance will enhance com-*
3 *petition among providers of telecommunications serv-*
4 *ices. If the Commission determines that such forbear-*
5 *ance will promote competition among providers of*
6 *telecommunications services, that determination may*
7 *be the basis for a Commission finding that forbear-*
8 *ance is in the public interest.*

9 “(2) *COMMERCIAL MOBILE SERVICES.—Nothing*
10 *in this subsection shall affect any determination by*
11 *the Commission under section 332 that a provision of*
12 *title II is inapplicable to a provider of commercial*
13 *mobile services.*

14 “(3) *PRICING FLEXIBILITY.—Consistent with sec-*
15 *tions 201(b) and 202(a), the Commission and the*
16 *States shall permit telecommunications carriers to*
17 *have pricing flexibility in service or geographic mar-*
18 *kets that are found to be competitive. In implement-*
19 *ing this subsection, the Commission and the States*
20 *shall ensure that rates for universal service and for*
21 *services that are not competitive remain just, reason-*
22 *able, affordable, and not unjustly or unreasonably*
23 *discriminatory and that universal service is preserved*
24 *and advanced.*

1 “(h) **RULES FOR FOREIGN OWNERSHIP.**—*The Com-*
2 *mission, upon a petition for waiver filed within 6 months*
3 *after the date of enactment of the Communications Act of*
4 *1994, may waive the application of section 310(b) to any*
5 *foreign ownership that lawfully existed before August, 1,*
6 *1994, of any provider of a telecommunications service that*
7 *will be treated as a common carrier solely as a result of*
8 *the enactment of the Communications Act of 1994, but only*
9 *upon the following conditions:*

10 “(1) *The extent of foreign ownership interest*
11 *shall not be increased above the extent which existed*
12 *on August, 1, 1994.*

13 “(2) *Such waiver shall not permit the subsequent*
14 *transfer of ownership to any other person in violation*
15 *of section 310(b).*

16 “(i) **COLLOCATION.**—*In the exercise of its authority*
17 *under this subsection, the Commission may require carriers*
18 *to provide for actual collocation of equipment necessary*
19 *interconnection at the premises of any carrier, if the Com-*
20 *mission finds actual collocation to be in the public interest.*

21 “(j) **MULTI-UNIT BUILDING.**—*No person owning, leas-*
22 *ing, controlling, or managing a multi-unit building shall*
23 *forbid or unreasonably restrict any occupant, tenant, or les-*
24 *see of such building from receiving telecommunications serv-*
25 *ices from any provider of its choice, who is duly certified*

1 *by or otherwise authorized by the State regulatory agency*
 2 *of relevant jurisdiction. The owner of such multi-unit build-*
 3 *ing may require from any such telecommunications carrier*
 4 *just and reasonable compensation for purposes of accessing*
 5 *the building to serve any occupant, tenant, or lessee or for*
 6 *the use of building facilities, provided that such compensa-*
 7 *tion is just and reasonable and does not discriminate be-*
 8 *tween or among providers of telecommunications services or*
 9 *change any telecommunications service provider greater*
 10 *compensation than that imposed, if any, on the local ex-*
 11 *change carrier. Nothing in this subsection shall affect the*
 12 *ability of a person owning, leasing, controlling, or manag-*
 13 *ing a multi-unit building to impose, on a competitively*
 14 *neutral basis, requirements necessary to protect the safety*
 15 *and security of the property and the safety and convenience*
 16 *of other persons.*

17 *“(k) RURAL MARKETS.—*

18 *“(1) STATE APPROVAL REQUIRED.—The Com-*
 19 *mission shall, within one year after the date of enact-*
 20 *ment of the Communications Act of 1994, promulgate*
 21 *regulations to require that any entity (other than an*
 22 *entity to which section 332(c) applies) seeking to pro-*
 23 *vide telephone exchange service in an area served by*
 24 *a rural telephone company after such date of enact-*
 25 *ment must first obtain approval from the appropriate*

1 *State commission for the purpose of ensuring compli-*
2 *ance with any statutes or regulations, if any, adopted*
3 *by such State under paragraph (2). Such State com-*
4 *mission shall approve an application for permission*
5 *to provide such service only if the application is con-*
6 *sistent with regulations issued by the Commission*
7 *under this subsection. A State commission shall take*
8 *action to approve or disapprove any application*
9 *within 180 days of receiving such application.*

10 “(2) *STATE OVERSIGHT.—The Commission shall,*
11 *within one year after the date of enactment of the*
12 *Communications Act of 1994, promulgate regulations*
13 *to permit State oversight of rural markets. The Com-*
14 *mission’s regulations shall not permit States to waive*
15 *or modify any requirements of the other subsections of*
16 *this section, but shall permit States to adopt statutes*
17 *or regulations that are no more restrictive than—*

18 “(A) *to require an enforceable commitment*
19 *by each applicant to offer universal service com-*
20 *parable to that offered by the rural telephone*
21 *company currently providing service in that*
22 *service area, and to make such service available*
23 *within 24 months of the approval date to all*
24 *consumers throughout that service area on a*
25 *common carrier basis, either using the appli-*

1 *cant's facilities or through resale under sub-*
2 *section (c) of services using another carrier's fa-*
3 *ilities (including the facilities of the rural tele-*
4 *phone company), and subject to the same terms,*
5 *conditions, and rate structure requirements as*
6 *those applicable to the rural telephone company*
7 *currently providing universal service;*

8 *"(B) to require that approval by the State*
9 *commission under paragraph (1) be based on*
10 *sufficient written public findings and conclu-*
11 *sions to demonstrate that such approval is in the*
12 *public interest and that there will not be a sig-*
13 *nificant adverse impact on users of telecommuni-*
14 *cations services or on the provision of universal*
15 *service;*

16 *"(C) to encourage the development and de-*
17 *ployment of advanced telecommunications and*
18 *information infrastructure and services in rural*
19 *areas; or*

20 *"(D) to protect the public safety and wel-*
21 *fare, ensure the continued quality of tele-*
22 *communications and information services, or*
23 *safeguard the rights of consumers.*

24 *"(3) PRE-EMPTION.—Upon a proper showing,*
25 *the Commission may pre-empt any State statute or*

1 *regulation that the Commission finds to be inconsis-*
2 *ent with the Commission's regulations implementing*
3 *this subsection, or an arbitrary or unreasonably dis-*
4 *criminatory application of such statute or regulation.*
5 *The Commission shall act upon any bona fide peti-*
6 *tion filed under this subsection within 180 days of re-*
7 *ceiving such petition. Pending such action, the Com-*
8 *mission may, in the public interest, suspend or mod-*
9 *ify application of any statute or regulation to which*
10 *the petition applies.*

11 *"(4) VIDEO PROGRAMMING.—Notwithstanding*
12 *section 613(b)(1), and unless authorized to provide*
13 *video programming directly to subscribers under sec-*
14 *tion 613(b)(3) or (b)(4), a rural telephone company*
15 *may not, after the date of enactment of the Commu-*
16 *nications Act of 1994, provide video programming di-*
17 *rectly to subscribers in such rural telephone compa-*
18 *ny's service area, or obtain a controlling interest*
19 *under section 613(b)(5) in a cable operator providing*
20 *cable service in such rural telephone company's serv-*
21 *ice area, unless—*

22 *"(A) the State has not imposed, or ceases to*
23 *impose, any conditions authorized under this*
24 *subsection on any entity's ability to provide tele-*

1 *phone exchange service in such rural telephone*
2 *company's service area;*

3 *“(B) such rural telephone company success-*
4 *fully petitions the State to waive any conditions*
5 *on any entity's ability to provide telephone ex-*
6 *change service in such rural telephone company's*
7 *service area; or*

8 *“(C) an entity unaffiliated with such rural*
9 *telephone company obtains approval from the*
10 *State to provide telephone exchange service in*
11 *such rural telephone company's service area.*

12 ***“(1) WAIVERS AND MODIFICATIONS.—***

13 ***“(1) RURAL TELEPHONE COMPANIES.—The Com-***
14 ***mission shall, upon petition or on the Commission's***
15 ***own initiative, modify the requirements of subsections***
16 ***(c) and (e) for a rural telephone company or compa-***
17 ***nies to the extent that the Commission determines***
18 ***that such requirements would result in unfair com-***
19 ***petition, impose a significant adverse economic im-***
20 ***port on users of telecommunications services, be tech-***
21 ***nically infeasible, or otherwise not be in the public***
22 ***interest. The Commission shall act upon any petition***
23 ***filed under this paragraph within 180 days of receiv-***
24 ***ing such petition. Pending such action, the Commis-***
25 ***sion may suspend enforcement of the regulation or***

1 regulations to which the petition applies with respect
2 to the petitioning carrier or carriers.

3 “(2) **CERTAIN OTHER CARRIERS.**—Upon a prop-
4 er showing by a telecommunications carrier or car-
5 riers, the Commission may waive or modify the re-
6 quirements of subsections (c) and (e) for that carrier
7 or carriers if each such carrier has, in the aggregate
8 nationwide, fewer than 2 percent of the Nation’s sub-
9 scriber lines installed, to the extent that the Commis-
10 sion determines that such requirements would result
11 in unfair competition, impose a significant adverse
12 economic impact on users of telecommunications serv-
13 ices, be technically infeasible, or otherwise not be in
14 the public interest. The Commission shall act upon
15 any petition filed under this paragraph within 180
16 days of receiving such petition. Pending such action,
17 the Commission may suspend enforcement of the regu-
18 lation or regulations to which the petition applies
19 with respect to the petitioning carrier or carriers.

20 “(m) **SPACE SEGMENT CAPACITY.**—Nothing in this
21 Act prohibits the Commission from continuing to determine
22 whether the provision of space segment capacity by satellite
23 systems to providers of commercial mobile services shall be
24 treated as common carriage.”.

1 **(b) PARTICIPATION BY REGISTERED UTILITY HOLD-**
2 **ING COMPANIES IN PROVIDING TELECOMMUNICATIONS**
3 **SERVICES.—**

4 **(1) IN GENERAL.—Title I of the Public Utility**
5 **Holding Company Act of 1935 (15 U.S.C. 79a et seq.)**
6 **is amended—**

7 **(A) by redesignating sections 34 and 35 as**
8 **35 and 36, respectively; and**

9 **(B) by inserting after section 33 the follow-**
10 **ing new section:**

11 **“SEC. 34. PARTICIPATION IN PROVISION OF TELECOMMUNI-**
12 **CATIONS SERVICES.**

13 **“(a) EXEMPTION OF COMMUNICATIONS ENTITIES**
14 **FROM APPLICABILITY OF ACT.—A communications entity**
15 **shall be exempt from all provisions of this Act, whether or**
16 **not it is a subsidiary company, an affiliate, or an associate**
17 **company of a holding company.**

18 **“(b) OWNERSHIP OF COMMUNICATIONS ENTITIES BY**
19 **REGISTERED HOLDING COMPANIES.—Notwithstanding any**
20 **provision of this Act, a registered holding company shall**
21 **be permitted to acquire and hold the securities or an inter-**
22 **est in the business of one or more communications entities**
23 **without the need to apply for or receive approval from the**
24 **Commission.**

1 “(c) **CONTINUING JURISDICTION OF THE COMMIS-**
2 **SION.—**

3 “(1) **IN GENERAL.—***The issuance of securities by*
4 *a registered holding company for purposes of financ-*
5 *ing the acquisition of a communications entity, the*
6 *guarantee of securities of a communications entity by*
7 *a registered holding company and the creation or*
8 *maintenance of other relationships in addition to that*
9 *described in subsection (b) between a communications*
10 *entity and a registered holding company, its affiliates*
11 *and associate companies, shall remain subject to the*
12 *jurisdiction of the Commission under the terms of this*
13 *Act and applicable Federal law.*

14 “(2) **BOOKS AND MARKETING.—***A communica-*
15 *tions entity which is an associate company of a reg-*
16 *istered holding company shall—*

17 “(A) *maintain books, records, and accounts*
18 *separate from the registered holding company*
19 *which identify all transactions with the reg-*
20 *istered holding company and its other associate*
21 *companies and provide access to such books,*
22 *records, and accounts to State commissions and*
23 *the Federal Energy Regulatory Commission*
24 *under the same terms and procedures as pro-*

1 *vided in section 201(g) of the Federal Power Act;*
2 *and*

3 *“(B) carry out directly (or through any*
4 *company that is not an associate company of the*
5 *communications entity) its own promotion, ex-*
6 *cept that institutional advertising carried out by*
7 *the registered holding company or its associate*
8 *companies shall be permitted so long as each*
9 *party bears its fair share of the costs of such ad-*
10 *vertising.*

11 *“(3) Notwithstanding paragraph (2)(B), a reg-*
12 *istered holding company or an associate company*
13 *thereof may provide inbound telemarketing or referral*
14 *service related to the provision of telecommunications*
15 *services, information services or other services set*
16 *forth in or subject to the Communications Act of*
17 *1934, or products or services related thereto, by a*
18 *communications entity which is an associate com-*
19 *pany of such registered holding company.*

20 *“(4) Notwithstanding paragraph (2)(B), a reg-*
21 *istered holding company or an associate company*
22 *thereof (other than a communications entity) may pe-*
23 *tition the Federal Communications Commission for*
24 *permission to market directly telecommunications*
25 *services, information services, or other services set*

1 *forth in or subject to the Communications Act of*
2 *1934, or products or services related thereto, provided*
3 *by an associate company which is a communications*
4 *entity upon a showing that a cable operator or other*
5 *entity directly or indirectly provides telecommuni-*
6 *cations services and markets such services jointly with*
7 *video programming services in the geographic region*
8 *covered by the petition. The registered holding com-*
9 *pany or associate company thereof shall specify the*
10 *geographic region covered by the petition. Any such*
11 *petition shall be granted or denied within 180 days.*

12 “(d) *INDEPENDENT AUDIT AUTHORITY FOR STATE*
13 *COMMISSIONS.—Any State commission with jurisdiction*
14 *over a public utility company that is an associate company*
15 *of a registered holding company and that transacts business*
16 *with a communications entity which is an associate com-*
17 *pany of such public utility company, may request that such*
18 *communications entity have performed, no more frequently*
19 *than on an annual basis, an independent audit of trans-*
20 *actions between such jurisdictional public utility and such*
21 *communications entity. Upon such request from a State*
22 *commission, the communications entity shall select an inde-*
23 *pendent auditor and bear the costs of performing such an*
24 *audit. The audit report shall be provided to the State com-*
25 *mission within 6 months of the audit request.*

1 “(e) *ASSUMPTION OF LIABILITIES.*—Any public utility
2 *company that is an associate company of a registered hold-*
3 *ing company and that is subject to the jurisdiction of a*
4 *State commission with respect to its retail electric or gas*
5 *rates shall not include in rates any cost associated with*
6 *the issuance of any security by the public utility for the*
7 *purpose of financing the acquisition, or for the purposes*
8 *of financing the ownership or operation, of a communica-*
9 *tions entity without the express approval of the State com-*
10 *mission. Any public utility company that is an associate*
11 *company of a registered holding company and that is sub-*
12 *ject to the jurisdiction of a State commission with respect*
13 *to its retail electric or gas rates shall not include in rates*
14 *any cost associated with the assumption of any obligation*
15 *or liability as guarantor, endorser, surety, or otherwise by*
16 *the public utility in respect of any security of a commu-*
17 *nications entity without the express approval of the State*
18 *commission.*

19 “(f) *PLEDGING OR ENCUMBERING UTILITY ASSETS.*—
20 *Any public utility company that is an associate company*
21 *of a registered holding company and that is subject to the*
22 *jurisdiction of a State commission with respect to its retail*
23 *electric or gas rates may not include in rates any cost asso-*
24 *ciated with the pledge or encumbering of any utility assets*
25 *of the public utility or utility assets of any subsidiary there-*

1 of for the benefit of an associate communications entity
2 without the express approval of the State commission.

3 “(g) **PROHIBITION ON CROSS SUBSIDIZATION.**—The
4 Federal Communications Commission shall prescribe regu-
5 lations that prohibit a communications entity that is an
6 associate company of a registered holding company from
7 providing telecommunications services, information serv-
8 ices, or other services set forth in or subject to the Commu-
9 nications Act of 1934, or products or services related thereto
10 to any associate company thereof unless the terms under
11 which the communications entity offers such services or
12 products are comparable to those offered to the public, hav-
13 ing due regard to any differences in type, quality, or quan-
14 tity of service, or, if no such comparability exists, then on
15 the basis of the fair allocation of the cost of providing such
16 services or products.

17 “(h) **APPLICABILITY OF TELECOMMUNICATIONS REGU-**
18 **LATION.**—Nothing in this section shall affect the authority
19 of the Federal Communications Commission under the
20 Communications Act of 1934, or the authority of State com-
21 missions under State laws concerning the provision of tele-
22 communications services, to regulate the activities of com-
23 munication entities.

24 “(i) **DEFINITIONS.**—For purposes of this section:

25 “(1) **COMMUNICATIONS ENTITY.**—

1 “(A) *IN GENERAL.*—*The term ‘communica-*
2 *tions entity’ means any person determined by*
3 *the Commission to be engaged, whether through*
4 *ownership of facilities, in the provision of serv-*
5 *ices, or otherwise, directly (or indirectly through*
6 *ownership of securities or any other interest) and*
7 *exclusively in the business, wheresoever located,*
8 *of providing telecommunications services, infor-*
9 *mation services, or other products or services set*
10 *forth in or subject to the Communications Act of*
11 *1934 (47 U.S.C. 151 et seq.), or products or serv-*
12 *ices related or incidental thereto, including en-*
13 *ergy and demand-side management services (but*
14 *not the manufacturing of devices or products ex-*
15 *cept to the extent such devices or products relate*
16 *to the provision of electric or gas service, and en-*
17 *ergy and demand-side management services).*

18 “(B) *COMMISSION DETERMINATION.*—*No*
19 *person shall be deemed to be a communications*
20 *entity under this section unless such person has*
21 *applied to the Commission for a determination*
22 *under this paragraph. A person applying in*
23 *good faith for such a determination shall be*
24 *deemed a communications entity under this sec-*
25 *tion, with all of the exemptions provided by this*

1 *section, until the Commission makes such a de-*
2 *termination. The Commission shall make such*
3 *determination within 60 days of its receipt of*
4 *such application. Not later than 12 months after*
5 *the date of enactment of the Communications Act*
6 *of 1994, the Commission shall promulgate regu-*
7 *lations to establish expeditious procedures for the*
8 *implementation of this paragraph. Applications*
9 *for determination filed after the effective date of*
10 *such rules shall be subject thereto.*

11 ***“(2) TELECOMMUNICATIONS SERVICE AND INFOR-***
12 ***MATION SERVICE.—The terms ‘telecommunications***
13 ***service’ and ‘information service’ have the meanings***
14 ***given such terms under the Communications Act of***
15 ***1934.”.***

16 ***(2) AUTHORITY TO DISALLOW RECOVERY OF CER-***
17 ***TAIN COSTS UNDER FEDERAL POWER ACT.—Section***
18 ***318 of the Federal Power Act (16 U.S.C. 825g) is***
19 ***amended—***

20 ***(A) by inserting “(a)” after “SEC. 318.”;***

21 ***and***

22 ***(B) by adding at the end thereof the follow-***
23 ***ing:***

24 ***“(b)(1) The Commission shall have the authority to***
25 ***disallow recovery in jurisdictional rates of any costs in-***

1 curred by a public utility pursuant to a transaction that
2 has been authorized under section 13(b) of the Public Util-
3 ity Holding Company Act of 1935, including costs allocated
4 to such public utility in accordance with paragraph (d),
5 if the Commission determines that the recovery of such costs
6 is unjust, unreasonable, or unduly preferential or discrimi-
7 natory under sections 205 or 206 of this Act.

8 “(2) Nothing in the Public Utility Holding Company
9 Act of 1935, or any actions taken thereunder, shall prevent
10 a State commission from exercising its jurisdiction to the
11 extent otherwise authorized under applicable law with re-
12 spect to the recovery by a public utility in its retail rates
13 of costs incurred by such public utility pursuant to a trans-
14 action authorized by the Securities and Exchange Commis-
15 sion under section 13(b) between an associate company and
16 such public utility, including costs allocated to such public
17 utility in accordance with paragraph (d).

18 “(c) In any proceeding of the Commission to consider
19 the recovery of costs described in subsection (b)(1), there
20 shall be a rebuttable presumption that such costs are just,
21 reasonable, and not unduly discriminatory or preferential
22 within the meaning of this Act.

23 “(d)(1) In any proceeding of the Commission to con-
24 sider the recovery of costs, the Commission shall give sub-
25 stantial deference to an allocation of charges for services,

1 construction work, or goods among associate companies
2 under section 13 of the Public Utility Holding Company
3 Act of 1935, whether made by rule, regulation, or order of
4 the Securities and Exchange Commission prior to or follow-
5 ing the enactment of the Communications Act of 1994.

6 “(2) If the Commission pursuant to paragraph (1) es-
7 tablishes an allocation of charges that differs from an allo-
8 cation established by the Securities and Exchange Commis-
9 sion with respect to the same charges, the allocation estab-
10 lished by the Federal Energy Regulatory Commission shall
11 be effective 12 months from the date of the order of the Fed-
12 eral Energy Regulatory Commission establishing such allo-
13 cation, and binding on the Securities and Exchange Com-
14 mission as of that date.

15 “(e) An allocation of charges for services, construction
16 work, or goods among associate companies under section 13
17 of the Public Utility Holding Company Act of 1935, wheth-
18 er made by rule, regulation, or order of the Securities and
19 Exchange Commission prior to or following enactment of
20 the Communications Act of 1994, shall prevent a State
21 Commission from using a different allocation with respect
22 to the assignment of costs to any associate company.

23 “(f) Subsection (b) shall not apply—

1 “(1) to any cost incurred and recovered prior to
2 July 15, 1994, whether or not subject to refund or ad-
3 justment; or

4 “(2) to any uncontested settlement approved by
5 the Commission or a State Commission prior to the
6 date of enactment of the Communications Act of
7 1994.”.

8 (3) **IMPACT ON OTHER MATTER.**—The enactment
9 of this subsection shall in no way affect Federal En-
10 ergy Regulatory Commission Docket No. FA89-28.

11 (4) **SAVINGS PROVISION.**—Section 318(b) of the
12 Federal Power Act (16 U.S.C. 825q(b)) shall not
13 apply to any cost incurred and recovered prior to the
14 date of enactment of this Act pursuant to a contract
15 or other arrangement for the sale of fuel from Wind-
16 sor Coal Company or Central Ohio Coal Company
17 which has been the subject of a determination by the
18 Securities and Exchange Commission prior to the
19 date of enactment of this Act, or any cost prudently
20 incurred after that date pursuant to such a contract
21 or other such arrangement before January 1, 2001.

22 (c) **CERTAIN BROADCASTS.**—Section 1307(a)(2) of
23 title 18, United States Code, is amended by striking out
24 “that is authorized” and all that follows and inserting
25 “which is broadcast by a radio or television station licensed

1 to a location in a State in which such activities are author-
2 ized or not otherwise prohibited.”.

3 **SEC. 303. IMPLEMENTING REGULATIONS.**

4 (a) The Commission shall, within 1 year after the date
5 of enactment of this Act, complete a proceeding to issue reg-
6 ulations to implement the amendments made by this title.

7 (b) Section 303 of the Communications Act of 1934
8 (47 U.S.C. 303) is amended by adding at the end thereof
9 the following new subsection:

10 “(v) Have exclusive jurisdiction to regulate the provi-
11 sion of direct broadcast satellite services.”.

12 **SEC. 304. STATE AND LOCAL TAXATION OF DIRECT BROAD-
13 CAST SATELLITE SERVICES.**

14 (a) **AUTHORITY TO IMPOSE TAXES AND FEES ON DI-
15 RECT BROADCAST SATELLITE SERVICES.—**

16 (1) **IN GENERAL.—**A State may require a direct
17 broadcast satellite service provider who is subject to
18 the personal jurisdiction of the State to collect and
19 remit a State sales tax, a local sales tax, or both, with
20 respect to direct broadcast satellite services, if—

21 (A) the destination of such services is in the
22 State, and

23 (B) in a State in which both State and
24 local sales taxes are imposed, the State, in ac-
25 cordance with the requirements of this section—

1 (i) requires the collection and remit-
2 tance of any applicable local sales taxes
3 with respect to direct broadcast satellite
4 services, and

5 (ii) collects and administers the local
6 sales taxes with respect to direct broadcast
7 satellite services, except in those local taxing
8 jurisdictions described in paragraph (2)(A).

9 (2) LOCAL TAXING JURISDICTION.—

10 (A) A State that exercises authority under
11 this section may require a direct broadcast sat-
12 ellite service provider to collect and remit local
13 sales taxes to the local taxing jurisdiction if—

14 (i) as of the effective date of this sec-
15 tion, the local taxing jurisdiction imposes
16 and administers a local sales tax separate
17 from the sales tax imposed by the State, or

18 (ii) after the effective date of this sec-
19 tion, a local jurisdiction that does not im-
20 pose any local sales taxes as of the effective
21 date of this section is authorized to impose
22 a local sales tax.

23 (B) If, after the effective date of this section,
24 a local jurisdiction is authorized to administer a
25 local sales tax that the State is administering as

1 *of the effective date of this section, the State shall*
2 *continue to collect and remit the local sales tax*
3 *authorized under this section in accordance with*
4 *paragraph (1)(B)(ii).*

5 **(3) DISTRIBUTION OF LOCAL SALES TAXES.—***A*
6 *State shall distribute the local sales tax collected*
7 *under the authority granted by this section to local*
8 *jurisdictions in accordance with the requirements pro-*
9 *vided by State law governing the distribution of local*
10 *sales taxes.*

11 **(b) STATE AND LOCAL LAW; NONDISCRIMINATION.—**

12 **(1) STATE AND LOCAL LAW.—***A State may re-*
13 *quire a direct broadcast satellite service provider to*
14 *collect and remit State and local sales taxes with re-*
15 *spect to direct broadcast satellite services only where*
16 *the applicable law of the State or local taxing juris-*
17 *isdiction imposes a sales tax.*

18 **(2) NONDISCRIMINATION.—***Except as otherwise*
19 *provided in this section, a State that exercises author-*
20 *ity under this section shall allow to direct broadcast*
21 *satellite service providers exemptions or other excep-*
22 *tions to State and local sales taxes that the State or*
23 *local taxing jurisdiction allows under similar cir-*
24 *cumstances to persons located within the State or*
25 *local taxing jurisdiction.*

1 (c) *EXEMPTION.*—

2 (1) *EXEMPTION OF OTHER LOCAL TAX OR FEE*
3 *FOR SERVICES.*—A direct broadcast satellite service
4 provider and its representatives for the sale or dis-
5 tribution of direct broadcast satellite services shall be
6 exempt from collecting and remitting any other local
7 tax or fee (as defined by subsection (d)(9)) imposed
8 on direct broadcast satellite services in any local tax-
9 ing jurisdiction in which, during the 1-year period
10 ending on September 30 of the calendar year preced-
11 ing the calendar year in which the provision of direct
12 broadcast satellite services occurs, the direct broadcast
13 satellite service provider does not own or hold any in-
14 terest in property or maintain an office, and limits
15 its business activities to no more than—

16 (A) providing direct broadcast satellite serv-
17 ices to subscribers in the local taxing jurisdic-
18 tion, and the billing for and collection of the fees
19 for such services occur outside the local taxing
20 jurisdiction; and

21 (B) soliciting and placing orders for the
22 sale of direct broadcast satellite services through
23 contractual arrangements with, and on the
24 premises of, retail outlets and establishments,
25 which orders are filled and billed for from a

1 point outside the local taxing jurisdiction, re-
2 gardless of where the subscriber makes an initial
3 payment for an initial subscription.

4 (2) *NO OTHER EFFECT.*—Except as provided
5 herein, this section does not affect the authority of
6 any State or local taxing jurisdiction of any State
7 otherwise to adopt, apply, and administer any tax or
8 method of taxation.

9 (d) *DEFINITIONS.*—For purposes of this section:

10 (1) *COMPENSATING USE TAX.*—The term “com-
11 pensating use tax” means a tax imposed on or inci-
12 dent to the use or consumption of direct broadcast
13 satellite services within a State or a local jurisdiction
14 or other area of a State.

15 (2) *DESTINATION.*—The term “destination”
16 means the State or local jurisdiction to which the di-
17 rect broadcast satellite service is delivered for viewing
18 or other activity to which the service is directed.

19 (3) *DIRECT BROADCAST SATELLITE SERVICE*
20 *PROVIDER.*—The term “direct broadcast satellite serv-
21 ice provider” means a licensee for a Ku-band satellite
22 system under part 100 of title 47, Code of Federal
23 Regulations, who provides direct broadcast satellite
24 services.

1 **(4) DIRECT BROADCAST SATELLITE SERVICES.—**

2 *The term "direct broadcast satellite services" means*
3 *the distribution or broadcasting of programming or*
4 *services by satellite directly to the subscriber's prem-*
5 *ises without the use of ground receiving or distribu-*
6 *tion equipment, except at the subscriber's premises, or*
7 *used in the initial uplink process to the direct broad-*
8 *cast satellite.*

9 **(5) LOCAL TAXING JURISDICTION.—***The term*
10 *"local taxing jurisdiction" means any municipality,*
11 *city, county, township, parish, transportation dis-*
12 *trict, or assessment jurisdiction, or any other political*
13 *subdivision with the authority to impose a tax or fee.*

14 **(6) LOCAL SALES TAX.—***The term "local sales*
15 *tax" means a sales or compensating use tax imposed*
16 *by a local taxing jurisdiction, whether administered*
17 *by the State or the local taxing jurisdiction.*

18 **(7) SALES TAX.—***The term "sales tax" means a*
19 *tax, including a compensating use tax, that is—*

20 **(A)** *imposed on or incident to the sale, pur-*
21 *chase, consumption, distribution, or other use of*
22 *direct satellite broadcast services as may be de-*
23 *finied or specified under the law imposing such*
24 *tax, and*

1 (B) measured by the amount of the sales
2 price, cost, charge, or gross receipts, or other
3 value of or for the services.

4 (8) *STATE*.—Notwithstanding any provision to
5 the contrary in this section, the term “State” means
6 any of the several States of the United States, the
7 District of Columbia, the Commonwealth of Puerto
8 Rico, and any territory or possession of the United
9 States.

10 (9) *OTHER LOCAL TAX OR FEE*.—The term
11 “other local tax or fee” means any local tax or fee
12 that is not a sales tax, as defined in paragraph (6)
13 or (7), including such locally imposed taxes and fees
14 as an intangible tax, income tax, business license tax,
15 utility tax, privilege tax, gross receipts tax, excise tax,
16 franchise fees, telecommunications tax, or other tax,
17 license, or fee.

18 (e) *EFFECTIVE DATE*.—This section shall take effect on
19 June 1, 1994.

20 **SEC. 306. POLE ATTACHMENTS.**

21 Section 224 of the Communications Act of 1934 (47
22 U.S.C. 224) is amended as follows—

23 (1) by inserting “or provider of telecommuni-
24 cations service” in subsection (a)(4) after “system”;

1 (2) by striking "cable television services" in sub-
2 section (c)(2)(B) and inserting "the services offered
3 via such attachments";

4 (3) by redesignating paragraph (2) of subsection
5 (d) as paragraph (4); and

6 (4) by striking out so much of subsection (d) as
7 precedes paragraph (4) (as redesignated) and insert-
8 ing the following:

9 "(d)(1) For purposes of subsection (b) of this section,
10 the Commission shall, no later than 1 year after the date
11 of enactment of the Communications Act of 1994, prescribe
12 regulations for ensuring that utilities charge just and rea-
13 sonable and nondiscriminatory rates for pole attachments
14 provided to all providers of telecommunications services, in-
15 cluding such attachments used by cable television systems
16 to provide telecommunications services (as defined in sec-
17 tion 3(jj) of this Act). The regulations shall—

18 "(A) recognize that the entire pole, duct, conduit,
19 or right-of-way, other than the usable space, is of
20 equal benefit to all attachments to the pole, duct, con-
21 duit, or right-of-way and therefore apportion the cost
22 of space, other than the usable space, equally among
23 all such attachments,

24 "(B) recognize that the usable space is of propor-
25 tional benefit to all entities attached to the pole, duct,

1 conduit, or right-of-way and therefore apportion the
2 cost of the usable space according to the percentage of
3 usable space required for each entity, and

4 “(C) allow for reasonable terms and conditions
5 relating to health, safety, and the provision of reliable
6 utility service.

7 “(2) The final regulations prescribed by the Commis-
8 sion under paragraph (1) shall not apply to a pole attach-
9 ment used by a cable television system solely to provide
10 cable services as defined in section 602(6) of this Act. The
11 rates for pole attachments used for such purposes shall as-
12 sure a utility the recovery of not less than the additional
13 costs of providing pole attachments, nor more than an
14 amount determined by multiplying—

15 “(A) the percentage of total usable space, or the
16 percentage of the total duct, conduit, or right-of-way
17 capacity occupied by the pole attachment, by

18 “(B) the sum of the operating expenses and ac-
19 tual capital costs of the utility attributable to the en-
20 tire pole, duct, conduit, or right-of-way.

21 “(3) For all providers of telecommunications services
22 except members of the exchange carrier association estab-
23 lished under 47 C.F.R. 69.601 as of December 31, 1993,
24 upon enactment of the Communications Act of 1994 and
25 until the Commission promulgates its final regulations

1 under paragraph (1), the rate formula contained in any
2 joint use pole attachment agreement between the electric
3 utility and the largest local exchange carrier having such
4 a joint use agreement in the utility's service area in effect
5 on January 1, 1994, shall also apply to the pole attach-
6 ments in the utility's service area. If no such joint use
7 agreement containing a rate formula exists, then the pole
8 attachment rate shall be the rate applicable under para-
9 graph (2) to the cable television systems which solely pro-
10 vide cable service as defined in section 602(6) of this Act.
11 Disputes concerning the applicability of a joint use agree-
12 ment shall be resolved by the Commission or the States, as
13 appropriate."

14 **SEC. 308. CARRIER OF LAST RESORT.**

15 *Section 214(d) of the Communications Act of 1934 (47*
16 *U.S.C. 214(d)) is amended by inserting "(1)" before "The*
17 *Commission" and by adding at the end the following new*
18 *paragraphs:*

19 *"(2) If one or more common carriers provide*
20 *telecommunications service to a geographic area, and*
21 *no common carrier will provide universal service to*
22 *an unserved community or any portion thereof that*
23 *requests such service within such area, or to a public*
24 *institutional telecommunications user which makes a*
25 *bona fide request under section 201C, then the Com-*

1 *mission shall determine which common carrier serv-*
2 *ing that area is best able to provide universal service*
3 *to the requesting unserved community or portion*
4 *thereof, or the requesting public institutional tele-*
5 *communications user, and shall designate such com-*
6 *mon carrier as a carrier of last resort for that*
7 *unserved community, portion thereof, or user.*

8 *“(3) In order to be designated as a carrier of last*
9 *resort eligible for universal service support payments*
10 *under section 201A, a common carrier must agree to*
11 *provide, either through its own facilities or through*
12 *resale of services using another carrier’s facilities, the*
13 *services encompassed within the definition of univer-*
14 *sal service to any community or portion thereof which*
15 *requests such service, and to any public institutional*
16 *telecommunications user which makes a bona fide re-*
17 *quest, within the applicable service area. Such serv-*
18 *ices must be offered at nondiscriminatory rates estab-*
19 *lished by the Commission throughout such service*
20 *area, and such carrier must advertise the availability*
21 *of such services and the applicable nondiscriminatory*
22 *rates throughout such service area using media of*
23 *general distribution. More than one common carrier*
24 *may be designated as a carrier of last resort for a*
25 *specific service area, provided that any additional*

1 *common carrier seeking carrier of last resort designa-*
2 *tion agrees to provide, either through its own facilities*
3 *or through resale of services using another carrier's*
4 *facilities, the services encompassed within the defini-*
5 *tion of universal service to any community or portion*
6 *thereof which requests such service, and to any public*
7 *institutional telecommunications user which makes a*
8 *bona fide request, within the same service area as the*
9 *first common carrier designated as a carrier of last*
10 *resort for such service area under this paragraph.*
11 *Such services must be offered at nondiscriminatory*
12 *rates established by the Commission throughout such*
13 *service area, and any such additional carrier of last*
14 *resort must advertise the availability of such services*
15 *and the applicable nondiscriminatory rates through-*
16 *out such service area using media of general distribu-*
17 *tion.*

18 *"(4) A common carrier designated by the Com-*
19 *mission as the carrier of last resort under paragraphs*
20 *(2) or (3) that refuses to provide universal service*
21 *within a reasonable period to such requesting*
22 *unserved community, portion thereof, or user shall*
23 *forfeit to the United States a fine of up to \$10,000*
24 *for each day that such carrier refuses to provide such*
25 *service. In establishing a reasonable period, the Com-*