

the equipment required to implement the Global Maritime Distress and Safety System installed and operating in good working condition.'

#### SEC. 207. RESTRICTIONS ON OVER-THE-AIR RECEPTION DEVICES.

Within 180 days after the date of enactment of this Act, the Commission shall, pursuant to section 303 of the Communications Act of 1934, promulgate regulations to prohibit restrictions that impair a viewer's ability to receive video programming services through devices designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service, or direct broadcast satellite services.

### TITLE III--CABLE SERVICES

#### SEC. 301. CABLE ACT REFORM.

##### (a) DEFINITIONS-

(1) DEFINITION OF CABLE SERVICE- Section 602(6)(B) (47 U.S.C. 522(6)(B)) is amended by inserting 'or use' after 'the selection'.

(2) CHANGE IN DEFINITION OF CABLE SYSTEM- Section 602(7) (47 U.S.C. 522(7)) is amended by striking '(B) a facility that serves only subscribers in 1 or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way;' and inserting '(B) a facility that serves subscribers without using any public right-of-way;'.

##### (b) RATE DEREGULATION-

(1) UPPER TIER REGULATION- Section 623(c) (47 U.S.C. 543(c)) is amended--

(A) in paragraph (1)(B), by striking 'subscriber, franchising authority, or other relevant State or local government entity' and inserting 'franchising authority (in accordance with paragraph (3))';

(B) in paragraph (1)(C), by striking 'such complaint' and inserting 'the first complaint filed with the franchising authority under paragraph (3)'; and

(C) by striking paragraph (3) and inserting the following:

'(3) REVIEW OF RATE CHANGES- The Commission shall review any complaint submitted by a franchising authority after the date of enactment of the Telecommunications Act of 1996 concerning an increase in rates for cable programming services and issue a final order within 90 days after it receives such a complaint, unless the parties agree to extend the period for such review. A franchising authority may not file a complaint under this paragraph unless, within 90 days after such increase becomes effective it receives subscriber complaints.

'(4) SUNSET OF UPPER TIER RATE REGULATION- This subsection

shall not apply to cable programming services provided after March 31, 1999.'.

(2) SUNSET OF UNIFORM RATE STRUCTURE IN MARKETS WITH EFFECTIVE COMPETITION- Section 623(d) (47 U.S.C. 543(d)) is amended by adding at the end thereof the following: 'This subsection does not apply to (1) a cable operator with respect to the provision of cable service over its cable system in any geographic area in which the video programming services offered by the operator in that area are subject to effective competition, or (2) any video programming offered on a per channel or per program basis. Bulk discounts to multiple dwelling units shall not be subject to this subsection, except that a cable operator of a cable system that is not subject to effective competition may not charge predatory prices to a multiple dwelling unit. Upon a prima facie showing by a complainant that there are reasonable grounds to believe that the discounted price is predatory, the cable system shall have the burden of showing that its discounted price is not predatory.'.

(3) EFFECTIVE COMPETITION- Section 623(l)(1) (47 U.S.C. 543(l)(1)) is amended--

(A) by striking 'or' at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting '; or'; and

(C) by adding at the end the following:

'(D) a local exchange carrier or its affiliate (or any multichannel video programming distributor using the facilities of such carrier or its affiliate) offers video programming services directly to subscribers by any means (other than direct-to-home satellite services) in the franchise area of an unaffiliated cable operator which is providing cable service in that franchise area, but only if the video programming services so offered in that area are comparable to the video programming services provided by the unaffiliated cable operator in that area.'.

(c) GREATER DEREGULATION FOR SMALLER CABLE COMPANIES- Section

623

(47 U.S.C 543) is amended by adding at the end thereof the following:

'(m) SPECIAL RULES FOR SMALL COMPANIES-

'(1) IN GENERAL- Subsections (a), (b), and (c) do not apply to a small cable operator with respect to--

'(A) cable programming services, or

'(B) a basic service tier that was the only service tier subject to regulation as of December 31, 1994,

in any franchise area in which that operator services 50,000 or

fewer subscribers.

`(2) DEFINITION OF SMALL CABLE OPERATOR- For purposes of this subsection, the term 'small cable operator' means a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000.'.

(d) MARKET DETERMINATIONS-

(1) MARKET DETERMINATIONS; EXPEDITED DECISIONMAKING- Section 614(h)(1)(C) (47 U.S.C. 534(h)(1)(C)) is amended--

(A) by striking 'in the manner provided in section 73.3555(d)(3)(i) of title 47, Code of Federal Regulations, as in effect on May 1, 1991,' in clause (i) and inserting 'by the Commission by regulation or order using, where available, commercial publications which delineate television markets based on viewing patterns,'; and

(B) by striking clause (iv) and inserting the following:

'(iv) Within 120 days after the date on which a request is filed under this subparagraph (or 120 days after the date of enactment of the Telecommunications Act of 1996, if later), the Commission shall grant or deny the request.'.

(2) APPLICATION TO PENDING REQUESTS- The amendment made by paragraph (1) shall apply to--

(A) any request pending under section 614(h)(1)(C) of the Communications Act of 1934 (47 U.S.C. 534(h)(1)(C)) on the date of enactment of this Act; and

(B) any request filed under that section after that date.

(e) TECHNICAL STANDARDS- Section 624(e) (47 U.S.C. 544(e)) is amended by striking the last two sentences and inserting the following: 'No State or franchising authority may prohibit, condition, or restrict a cable system's use of any type of subscriber equipment or any transmission technology.'.

(f) CABLE EQUIPMENT COMPATIBILITY- Section 624A (47 U.S.C. 544A) is amended--

(1) in subsection (a) by striking 'and' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '; and'; and by adding at the end the following new paragraph:

'(4) compatibility among televisions, video cassette recorders, and cable systems can be assured with narrow technical standards that mandate a minimum degree of common design and operation, leaving all features, functions, protocols, and other product and service options for selection through open competition in the market.';

(2) in subsection (c)(1)--

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(B) by inserting before such redesignated subparagraph (B) the following new subparagraph:

`(A) the need to maximize open competition in the market for all features, functions, protocols, and other product and service options of converter boxes and other cable converters unrelated to the descrambling or decryption of cable television signals;'; and

(3) in subsection (c)(2)--

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

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

`(D) to ensure that any standards or regulations developed under the authority of this section to ensure compatibility between televisions, video cassette recorders, and cable systems do not affect features, functions, protocols, and other product and service options other than those specified in paragraph (1)(B), including telecommunications interface equipment, home automation communications, and computer network services;'.

(g) SUBSCRIBER NOTICE- Section 632 (47 U.S.C. 552) is amended--

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

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

`(c) SUBSCRIBER NOTICE- A cable operator may provide notice of service and rate changes to subscribers using any reasonable written means at its sole discretion. Notwithstanding section 623(b)(6) or any other provision of this Act, a cable operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State, or franchising authority on the transaction between the operator and the subscriber.'.

(h) PROGRAM ACCESS- Section 628 (47 U.S.C. 548) is amended by adding at the end the following:

`(j) COMMON CARRIERS- Any provision that applies to a cable operator under this section shall apply to a common carrier or its affiliate that provides video programming by any means directly to subscribers. Any such provision that applies to a satellite cable programming vendor in which a cable operator has an attributable interest shall apply to any satellite cable programming vendor in which such common carrier has an attributable interest. For the

purposes of this subsection, two or fewer common officers or directors shall not by itself establish an attributable interest by a common carrier in a satellite cable programming vendor (or its parent company).'

(i) ANTITRAFFICKING- Section 617 (47 U.S.C. 537) is amended--

(1) by striking subsections (a) through (d); and

(2) in subsection (e), by striking '(e)' and all that follows through 'a franchising authority' and inserting 'A franchising authority'.

(j) AGGREGATION OF EQUIPMENT COSTS- Section 623(a) (47 U.S.C. 543(a)) is amended by adding at the end the following new paragraph:

'(7) AGGREGATION OF EQUIPMENT COSTS-

'(A) IN GENERAL- The Commission shall allow cable operators, pursuant to any rules promulgated under subsection (b)(3), to aggregate, on a franchise, system, regional, or company level, their equipment costs into broad categories, such as converter boxes, regardless of the varying levels of functionality of the equipment within each such broad category. Such aggregation shall not be permitted with respect to equipment used by subscribers who receive only a rate regulated basic service tier.

'(B) REVISION TO COMMISSION RULES; FORMS- Within 120 days of the date of enactment of the Telecommunications Act of 1996, the Commission shall issue revisions to the appropriate rules and forms necessary to implement subparagraph (A).'

(k) TREATMENT OF PRIOR YEAR LOSSES-

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

'(n) TREATMENT OF PRIOR YEAR LOSSES- Notwithstanding any other provision of this section or of section 612, losses associated with a cable system (including losses associated with the grant or award of a franchise) that were incurred prior to September 4, 1992, with respect to a cable system that is owned and operated by the original franchisee of such system shall not be disallowed, in whole or in part, in the determination of whether the rates for any tier of service or any type of equipment that is subject to regulation under this section are lawful.'

(2) EFFECTIVE DATE- The amendment made by paragraph (1) shall take effect on the date of enactment of this Act and shall be applicable to any rate proposal filed on or after September 4, 1993, upon which no final action has been taken by December 1, 1995.

## **SEC. 302. CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES.**

(a) PROVISIONS FOR REGULATION OF CABLE SERVICE PROVIDED BY

TELEPHONE COMPANIES- Title VI (47 U.S.C. 521 et seq.) is amended by adding at the end the following new part:

**PART V--VIDEO PROGRAMMING SERVICES PROVIDED BY TELEPHONE COMPANIES**

SEC. 651. REGULATORY TREATMENT OF VIDEO PROGRAMMING SERVICES.

(a) LIMITATIONS ON CABLE REGULATION-

(1) RADIO-BASED SYSTEMS- To the extent that a common carrier (or any other person) is providing video programming to subscribers using radio communication, such carrier (or other person) shall be subject to the requirements of title III and section 652, but shall not otherwise be subject to the requirements of this title.

(2) COMMON CARRIAGE OF VIDEO TRAFFIC- To the extent that a common carrier is providing transmission of video programming on a common carrier basis, such carrier shall be subject to the requirements of title II and section 652, but shall not otherwise be subject to the requirements of this title. This paragraph shall not affect the treatment under section 602(7)(C) of a facility of a common carrier as a cable system.

(3) CABLE SYSTEMS AND OPEN VIDEO SYSTEMS- To the extent that a common carrier is providing video programming to its subscribers in any manner other than that described in paragraphs (1) and (2)--

(A) such carrier shall be subject to the requirements of this title, unless such programming is provided by means of an open video system for which the Commission has approved a certification under section 653; or

(B) if such programming is provided by means of an open video system for which the Commission has approved a certification under section 653, such carrier shall be subject to the requirements of this part, but shall be subject to parts I through IV of this title only as provided in 653(c).

(4) ELECTION TO OPERATE AS OPEN VIDEO SYSTEM- A common carrier that is providing video programming in a manner described in paragraph (1) or (2), or a combination thereof, may elect to provide such programming by means of an open video system that complies with section 653. If the Commission approves such carrier's certification under section 653, such carrier shall be subject to the requirements of this part, but shall be subject to parts I through IV of this title only as provided in 653(c).

(b) LIMITATIONS ON INTERCONNECTION OBLIGATIONS- A local exchange carrier that provides cable service through an open video system or a cable system shall not be required, pursuant to title II of this

Act, to make capacity available on a nondiscriminatory basis to any other person for the provision of cable service directly to subscribers.

`(c) ADDITIONAL REGULATORY RELIEF- A common carrier shall not be required to obtain a certificate under section 214 with respect to the establishment or operation of a system for the delivery of video programming.

`SEC. 652. PROHIBITION ON BUY OUTS.

`(a) ACQUISITIONS BY CARRIERS- No local exchange carrier or any affiliate of such carrier owned by, operated by, controlled by, or under common control with such carrier may purchase or otherwise acquire directly or indirectly more than a 10 percent financial interest, or any management interest, in any cable operator providing cable service within the local exchange carrier's telephone service area.

`(b) ACQUISITIONS BY CABLE OPERATORS- No cable operator or affiliate of a cable operator that is owned by, operated by, controlled by, or under common ownership with such cable operator may purchase or otherwise acquire, directly or indirectly, more than a 10 percent financial interest, or any management interest, in any local exchange carrier providing telephone exchange service within such cable operator's franchise area.

`(c) JOINT VENTURES- A local exchange carrier and a cable operator whose telephone service area and cable franchise area, respectively, are in the same market may not enter into any joint venture or partnership to provide video programming directly to subscribers or to provide telecommunications services within such market.

`(d) EXCEPTIONS-

`(1) RURAL SYSTEMS- Notwithstanding subsections (a), (b), and (c) of this section, a local exchange carrier (with respect to a cable system located in its telephone service area) and a cable operator (with respect to the facilities of a local exchange carrier used to provide telephone exchange service in its cable franchise area) may obtain a controlling interest in, management interest in, or enter into a joint venture or partnership with the operator of such system or facilities for the use of such system or facilities to the extent that--

`(A) such system or facilities only serve incorporated or unincorporated--

`(i) places or territories that have fewer than 35,000 inhabitants; and

`(ii) are outside an urbanized area, as defined by the Bureau of the Census; and

`(B) in the case of a local exchange carrier, such

system, in the aggregate with any other system in which such carrier has an interest, serves less than 10 percent of the households in the telephone service area of such carrier.

`(2) JOINT USE- Notwithstanding subsection (c), a local exchange carrier may obtain, with the concurrence of the cable operator on the rates, terms, and conditions, the use of that part of the transmission facilities of a cable system extending from the last multi-user terminal to the premises of the end user, if such use is reasonably limited in scope and duration, as determined by the Commission.

`(3) ACQUISITIONS IN COMPETITIVE MARKETS- Notwithstanding subsections (a) and (c), a local exchange carrier may obtain a controlling interest in, or form a joint venture or other partnership with, or provide financing to, a cable system (hereinafter in this paragraph referred to as 'the subject cable system'), if--

`(A) the subject cable system operates in a television market that is not in the top 25 markets, and such market has more than 1 cable system operator, and the subject cable system is not the cable system with the most subscribers in such television market;

`(B) the subject cable system and the cable system with the most subscribers in such television market held on May 1, 1995, cable television franchises from the largest municipality in the television market and the boundaries of such franchises were identical on such date;

`(C) the subject cable system is not owned by or under common ownership or control of any one of the 50 cable system operators with the most subscribers as such operators existed on May 1, 1995; and

`(D) the system with the most subscribers in the television market is owned by or under common ownership or control of any one of the 10 largest cable system operators as such operators existed on May 1, 1995.

`(4) EXEMPT CABLE SYSTEMS- Subsection (a) does not apply to any cable system if--

`(A) the cable system serves no more than 17,000 cable subscribers, of which no less than 8,000 live within an urban area, and no less than 6,000 live within a nonurbanized area as of June 1, 1995;

`(B) the cable system is not owned by, or under common ownership or control with, any of the 50 largest cable system operators in existence on June 1, 1995; and

`(C) the cable system operates in a television market



that was not in the top 100 television markets as of June 1, 1995.

`(5) SMALL CABLE SYSTEMS IN NONURBAN AREAS- Notwithstanding subsections (a) and (c), a local exchange carrier with less than \$100,000,000 in annual operating revenues (or any affiliate of such carrier owned by, operated by, controlled by, or under common control with such carrier) may purchase or otherwise acquire more than a 10 percent financial interest in, or any management interest in, or enter into a joint venture or partnership with, any cable system within the local exchange carrier's telephone service area that serves no more than 20,000 cable subscribers, if no more than 12,000 of those subscribers live within an urbanized area, as defined by the Bureau of the Census.

`(6) WAIVERS- The Commission may waive the restrictions of subsections (a), (b), or (c) only if--

`(A) the Commission determines that, because of the nature of the market served by the affected cable system or facilities used to provide telephone exchange service--

`(i) the affected cable operator or local exchange carrier would be subjected to undue economic distress by the enforcement of such provisions;

`(ii) the system or facilities would not be economically viable if such provisions were enforced; or

`(iii) the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served; and

`(B) the local franchising authority approves of such waiver.

`(e) DEFINITION OF TELEPHONE SERVICE AREA- For purposes of this section, the term 'telephone service area' when used in connection with a common carrier subject in whole or in part to title II of this Act means the area within which such carrier provided telephone exchange service as of January 1, 1993, but if any common carrier after such date transfers its telephone exchange service facilities to another common carrier, the area to which such facilities provide telephone exchange service shall be treated as part of the telephone service area of the acquiring common carrier and not of the selling common carrier.

#### **SEC. 653. ESTABLISHMENT OF OPEN VIDEO SYSTEMS.**

`(a) OPEN VIDEO SYSTEMS-

`(1) CERTIFICATES OF COMPLIANCE- A local exchange carrier may provide cable service to its cable service subscribers in its

telephone service area through an open video system that complies with this section. To the extent permitted by such regulations as the Commission may prescribe consistent with the public interest, convenience, and necessity, an operator of a cable system or any other person may provide video programming through an open video system that complies with this section. An operator of an open video system shall qualify for reduced regulatory burdens under subsection (c) of this section if the operator of such system certifies to the Commission that such carrier complies with the Commission's regulations under subsection (b) and the Commission approves such certification. The Commission shall publish notice of the receipt of any such certification and shall act to approve or disapprove any such certification within 10 days after receipt of such certification.

`(2) DISPUTE RESOLUTION- The Commission shall have the authority to resolve disputes under this section and the regulations prescribed thereunder. Any such dispute shall be resolved within 180 days after notice of such dispute is submitted to the Commission. At that time or subsequently in a separate damages proceeding, the Commission may, in the case of any violation of this section, require carriage, award damages to any person denied carriage, or any combination of such sanctions. Any aggrieved party may seek any other remedy available under this Act.

**(b) COMMISSION ACTIONS-**

`(1) REGULATIONS REQUIRED- Within 6 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall complete all actions necessary (including any reconsideration) to prescribe regulations that--

→ `(A) except as required pursuant to section 611, 614, or 615, prohibit an operator of an open video system from discriminating among video programming providers with regard to carriage on its open video system, and ensure that the rates, terms, and conditions for such carriage are just and reasonable, and are not unjustly or unreasonably discriminatory;

→ `(B) if demand exceeds the channel capacity of the open video system, prohibit an operator of an open video system and its affiliates from selecting the video programming services for carriage on more than one-third of the activated channel capacity on such system, but nothing in this subparagraph shall be construed to limit the number of channels that the carrier and its affiliates may offer to provide directly to subscribers;

→ `(C) permit an operator of an open video system to carry

on only one channel any video programming service that is offered by more than one video programming provider (including the local exchange carrier's video programming affiliate): [Italic->] Provided, [<-Italic] That subscribers have ready and immediate access to any such video programming service;

`(D) extend to the distribution of video programming over open video systems the Commission's regulations concerning sports exclusivity (47 C.F.R. 76.67), network nonduplication (47 C.F.R. 76.92 et seq.), and syndicated exclusivity (47 C.F.R. 76.151 et seq.); and

→ `(E)(i) prohibit an operator of an open video system from unreasonably discriminating in favor of the operator or its affiliates with regard to material or information (including advertising) provided by the operator to subscribers for the purposes of selecting programming on the open video system, or in the way such material or information is presented to subscribers;

`(ii) require an operator of an open video system to ensure that video programming providers or copyright holders (or both) are able suitably and uniquely to identify their programming services to subscribers;

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

`(iv) prohibit an operator of an open video system from omitting television broadcast stations or other unaffiliated video programming services carried on such system from any navigational device, guide, or menu.

`(2) CONSUMER ACCESS- Subject to the requirements of paragraph (1) and the regulations thereunder, nothing in this section prohibits a common carrier or its affiliate from negotiating mutually agreeable terms and conditions with over-the-air broadcast stations and other unaffiliated video programming providers to allow consumer access to their signals on any level or screen of any gateway, menu, or other program guide, whether provided by the carrier or its affiliate.

`(c) REDUCED REGULATORY BURDENS FOR OPEN VIDEO SYSTEMS-

`(1) IN GENERAL- Any provision that applies to a cable operator under--

`(A) sections 613 (other than subsection (a) thereof), 616, 623(f), 628, 631, and 634 of this title, shall apply,

`(B) sections 611, 614, and 615 of this title, and section 325 of title III, shall apply in accordance with the regulations prescribed under paragraph (2), and

`(C) sections 612 and 617, and parts III and IV (other than sections 623(f), 628, 631, and 634), of this title shall not apply,

to any operator of an open video system for which the Commission has approved a certification under this section.

`(2) IMPLEMENTATION-

`(A) COMMISSION ACTION- In the rulemaking proceeding to prescribe the regulations required by subsection (b)(1), the Commission shall, to the extent possible, impose obligations that are no greater or lesser than the obligations contained in the provisions described in paragraph (1)(B) of this subsection. The Commission shall complete all action (including any reconsideration) to prescribe such regulations no later than 6 months after the date of enactment of the Telecommunications Act of 1996.

`(B) FEES- An operator of an open video system under this part may be subject to the payment of fees on the gross revenues of the operator for the provision of cable service imposed by a local franchising authority or other governmental entity, in lieu of the franchise fees permitted under section 622. The rate at which such fees are imposed shall not exceed the rate at which franchise fees are imposed on any cable operator transmitting video programming in the franchise area, as determined in accordance with regulations prescribed by the Commission. An operator of an open video system may designate that portion of a subscriber's bill attributable to the fee under this subparagraph as a separate item on the bill.

`(3) REGULATORY STREAMLINING- With respect to the establishment and operation of an open video system, the requirements of this section shall apply in lieu of, and not in addition to, the requirements of title II.

`(4) TREATMENT AS CABLE OPERATOR- Nothing in this Act precludes a video programming provider making use of an open video system from being treated as an operator of a cable system for purposes of section 111 of title 17, United States Code.

`(d) DEFINITION OF TELEPHONE SERVICE AREA- For purposes of this section, the term 'telephone service area' when used in connection with a common carrier subject in whole or in part to title II of this Act means the area within which such carrier is offering telephone exchange service.'

(b) CONFORMING AND TECHNICAL AMENDMENTS-

(1) REPEAL- Subsection (b) of section 613 (47 U.S.C. 533(b)) is repealed.

(2) DEFINITIONS- Section 602 (47 U.S.C. 531) is amended--

(A) in paragraph (7), by striking `, or (D)' and inserting the following: `, unless the extent of such use is solely to provide interactive on-demand services; (D) an open video system that complies with section 653 of this title; or (E)';

(B) by redesignating paragraphs (12) through (19) as paragraphs (13) through (20), respectively; and

(C) by inserting after paragraph (11) the following new paragraph:

`(12) the term `interactive on-demand services' means a service providing video programming to subscribers over switched networks on an on-demand, point-to-point basis, but does not include services providing video programming prescheduled by the programming provider;'

(3) TERMINATION OF VIDEO-DIALTONE REGULATIONS- The Commission's regulations and policies with respect to video dialtone requirements issued in CC Docket No. 87-266 shall cease to be effective on the date of enactment of this Act.

This paragraph shall not be construed to require the termination of any video-dialtone system that the Commission has approved before the date of enactment of this Act.

#### SEC. 303. PREEMPTION OF FRANCHISING AUTHORITY REGULATION OF TELECOMMUNICATIONS SERVICES.

##### (a) PROVISION OF TELECOMMUNICATIONS SERVICES BY A CABLE OPERATOR-

Section 621(b) (47 U.S.C. 541(b)) is amended by adding at the end thereof the following new paragraph:

`(3)(A) If a cable operator or affiliate thereof is engaged in the provision of telecommunications services--

`(i) such cable operator or affiliate shall not be required to obtain a franchise under this title for the provision of telecommunications services; and

`(ii) the provisions of this title shall not apply to such cable operator or affiliate for the provision of telecommunications services.

`(B) A franchising authority may not impose any requirement under this title that has the purpose or effect of prohibiting, limiting, restricting, or conditioning the provision of a telecommunications service by a cable operator or an affiliate thereof.

`(C) A franchising authority may not order a cable operator or affiliate thereof--

`(i) to discontinue the provision of a telecommunications service, or

`(ii) to discontinue the operation of a cable system, to the

extent such cable system is used for the provision of a telecommunications service, by reason of the failure of such cable operator or affiliate thereof to obtain a franchise or franchise renewal under this title with respect to the provision of such telecommunications service.

`(D) Except as otherwise permitted by sections 611 and 612, a franchising authority may not require a cable operator to provide any telecommunications service or facilities, other than institutional networks, as a condition of the initial grant of a franchise, a franchise renewal, or a transfer of a franchise.'

(b) FRANCHISE FEES- Section 622(b) (47 U.S.C. 542(b)) is amended by inserting 'to provide cable services' immediately before the period at the end of the first sentence thereof.

#### SEC. 304. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES.

Part III of title VI is amended by inserting after section 628 (47 U.S.C. 548) the following new section:

#### `SEC. 629. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES.

`(a) COMMERCIAL CONSUMER AVAILABILITY OF EQUIPMENT USED TO ACCESS SERVICES PROVIDED BY MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTORS-

The Commission shall, in consultation with appropriate industry standard-setting organizations, adopt regulations to assure the commercial availability, to consumers of multichannel video programming and other services offered over multichannel video programming systems, of converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, from manufacturers, retailers, and other vendors not affiliated with any multichannel video programming distributor. Such regulations shall not prohibit any multichannel video programming distributor from also offering converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, to consumers, if the system operator's charges to consumers for such devices and equipment are separately stated and not subsidized by charges for any such service.

`(b) PROTECTION OF SYSTEM SECURITY- The Commission shall not prescribe regulations under subsection (a) which would jeopardize security of multichannel video programming and other services offered over multichannel video programming systems, or impede the legal rights of a provider of such services to prevent theft of service.

`(c) WAIVER- The Commission shall waive a regulation adopted

under subsection (a) for a limited time upon an appropriate showing by a provider of multichannel video programming and other services offered over multichannel video programming systems, or an equipment provider, that such waiver is necessary to assist the development or introduction of a new or improved multichannel video programming or other service offered over multichannel video programming systems, technology, or products. Upon an appropriate showing, the Commission shall grant any such waiver request within 90 days of any application filed under this subsection, and such waiver shall be effective for all service providers and products in that category and for all providers of services and products.

`(d) AVOIDANCE OF REDUNDANT REGULATIONS-

`(1) COMMERCIAL AVAILABILITY DETERMINATIONS- Determinations made or regulations prescribed by the Commission with respect to commercial availability to consumers of converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, before the date of enactment of the Telecommunications Act of 1996 shall fulfill the requirements of this section.

`(2) REGULATIONS- Nothing in this section affects section 64.702(e) of the Commission's regulations (47 C.F.R. 64.702(e)) or other Commission regulations governing interconnection and competitive provision of customer premises equipment used in connection with basic common carrier communications services.

`(e) SUNSET- The regulations adopted under this section shall cease to apply when the Commission determines that--

`(1) the market for the multichannel video programming distributors is fully competitive;

`(2) the market for converter boxes, and interactive communications equipment, used in conjunction with that service is fully competitive; and

`(3) elimination of the regulations would promote competition and the public interest.

`(f) COMMISSION'S AUTHORITY- Nothing in this section shall be construed as expanding or limiting any authority that the Commission may have under law in effect before the date of enactment of the Telecommunications Act of 1996.'

SEC. 305. VIDEO PROGRAMMING ACCESSIBILITY.

Title VII is amended by inserting after section 712 (47 U.S.C. 612) the following new section:

`SEC. 713. VIDEO PROGRAMMING ACCESSIBILITY.

`(a) COMMISSION INQUIRY- Within 180 days after the date of enactment of the Telecommunications Act of 1996, the Federal Communications Commission shall complete an inquiry to ascertain



the level at which video programming is closed captioned. Such inquiry shall examine the extent to which existing or previously published programming is closed captioned, the size of the video programming provider or programming owner providing closed captioning, the size of the market served, the relative audience shares achieved, or any other related factors. The Commission shall submit to the Congress a report on the results of such inquiry.

`(b) ACCOUNTABILITY CRITERIA- Within 18 months after such date of enactment, the Commission shall prescribe such regulations as are necessary to implement this section. Such regulations shall ensure that--

`(1) video programming first published or exhibited after the effective date of such regulations is fully accessible through the provision of closed captions, except as provided in subsection (d); and

`(2) video programming providers or owners maximize the accessibility of video programming first published or exhibited prior to the effective date of such regulations through the provision of closed captions, except as provided in subsection (d).

`(c) DEADLINES FOR CAPTIONING- Such regulations shall include an appropriate schedule of deadlines for the provision of closed captioning of video programming.

`(d) EXEMPTIONS- Notwithstanding subsection (b)--

`(1) the Commission may exempt by regulation programs, classes of programs, or services for which the Commission has determined that the provision of closed captioning would be economically burdensome to the provider or owner of such programming;

`(2) a provider of video programming or the owner of any program carried by the provider shall not be obligated to supply closed captions if such action would be inconsistent with contracts in effect on the date of enactment of the Telecommunications Act of 1996, except that nothing in this section shall be construed to relieve a video programming provider of its obligations to provide services required by Federal law; and

`(3) a provider of video programming or program owner may petition the Commission for an exemption from the requirements of this section, and the Commission may grant such petition upon a showing that the requirements contained in this section would result in an undue burden.

`(e) UNDUE BURDEN- The term 'undue burden' means significant difficulty or expense. In determining whether the closed captions necessary to comply with the requirements of this paragraph would



result in an undue economic burden, the factors to be considered include--

- `(1) the nature and cost of the closed captions for the programming;
- `(2) the impact on the operation of the provider or program owner;
- `(3) the financial resources of the provider or program owner; and
- `(4) the type of operations of the provider or program owner.

`(f) VIDEO DESCRIPTIONS INQUIRY- Within 6 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall commence an inquiry to examine the use of video descriptions on video programming in order to ensure the accessibility of video programming to persons with visual impairments, and report to Congress on its findings. The Commission's report shall assess appropriate methods and schedules for phasing video descriptions into the marketplace, technical and quality standards for video descriptions, a definition of programming for which video descriptions would apply, and other technical and legal issues that the Commission deems appropriate.

`(g) VIDEO DESCRIPTION- For purposes of this section, 'video description' means the insertion of audio narrated descriptions of a television program's key visual elements into natural pauses between the program's dialogue.

`(h) PRIVATE RIGHTS OF ACTIONS PROHIBITED- Nothing in this section shall be construed to authorize any private right of action to enforce any requirement of this section or any regulation thereunder. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.'

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#### TITLE IV--REGULATORY REFORM

##### SEC. 401. REGULATORY FORBEARANCE.

Title I is amended by inserting after section 9 (47 U.S.C. 159) the following new section:

##### `SEC. 10. COMPETITION IN PROVISION OF TELECOMMUNICATIONS SERVICE.

`(a) REGULATORY FLEXIBILITY- Notwithstanding section 332(c)(1)(A) of this Act, the Commission shall forbear from applying any regulation or any provision of this Act to a telecommunications carrier or telecommunications service, or class of telecommunications carriers or telecommunications services, in any or some of its or their geographic markets, if the Commission determines that--

- `(1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service