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TELECOMMUNICATIONS ACT OF 1996

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FEBRUARY 1, 1996.—Ordered to be printed

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Mr. PRESSLER, from the committee of conference,  
submitted the following

CONFERENCE REPORT

[To accompany S. 652]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 652), to provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

**SECTION 1. SHORT TITLE; REFERENCES.**

(a) **SHORT TITLE.**—*This Act may be cited as the "Telecommunications Act of 1996".*

(b) **REFERENCES.**—*Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Communications Act of 1934 (47 U.S.C. 151 et seq.).*

**SEC. 2. TABLE OF CONTENTS.**

*The table of contents for this Act is as follows:*

- Sec. 1. Short title; references.*
- Sec. 2. Table of contents.*
- Sec. 3. Definitions.*

portionate share of the costs incurred by the owner in making such conduit or right-of-way accessible.

*Conference agreement*

The conference agreement adopts the Senate provision with modifications. The conference agreement amends section 224 of the Communications Act by adding new subsection (e)(1) to allow parties to negotiate the rates, terms, and conditions for attaching to poles, ducts, conduits, and rights-of-way owned or controlled by utilities. New subsection 224(e)(2) establishes a new rate formula charged to telecommunications carriers for the non-useable space of each pole. Such rate shall be based upon the number of attaching entities. The conferees also agree to three additional provisions from the House amendment. First, subsection (g) requires utilities that engage in the provision of telecommunications services or cable services to impute to its costs of providing such service an equal amount to the pole attachment rate for which such company would be liable under section 224. Second, new subsection 224(h) requires utilities to provide written notification to attaching entities of any plans to modify or alter its poles, ducts, conduit, or rights-of-way. New subsection 224(h) also requires any attaching entity that takes advantage of such opportunity to modify its own attachments shall bear a proportionate share of the costs of such alterations. Third, new subsection 224(i) prevents a utility from imposing the cost of rearrangements to other attaching entities if done solely for the benefit of the utility.

SECTION 704—FACILITIES SITING; RADIO FREQUENCY EMISSION STANDARDS

*Senate bill*

No provision.

*House amendment*

Section 108 of the House amendment required the Commission to issue regulations within 180 days of enactment for siting of CMS. A negotiated rulemaking committee comprised of State and local governments, public safety agencies and the affected industries were to have attempted to develop a uniform policy to propose to the Commission for the siting of wireless tower sites.

The House amendment also required the Commission to complete its pending Radio Frequency (RF) emission exposure standards within 180 days of enactment. The siting of facilities could not be denied on the basis of RF emission levels for facilities that were in compliance with the Commission standard.

The House amendment also required that to the greatest extent possible the Federal government make available to use of Federal property, rights-of-way, easements and any other physical instruments in the siting of wireless telecommunications facilities.

*Conference agreement*

The conference agreement creates a new section 704 which prevents Commission preemption of local and State land use decisions and preserves the authority of State and local governments over

The limitations on the role and powers of the Commission under this subparagraph relate to local land use regulations and are not intended to limit or affect the Commission's general authority over radio telecommunications, including the authority to regulate the construction, modification and operation of radio facilities.

The conferees intend that the court to which a party appeals a decision under section 332(c)(7)(B)(v) may be the Federal district court in which the facilities are located or a State court of competent jurisdiction, at the option of the party making the appeal, and that the courts act expeditiously in deciding such cases. The term "final action" of that new subparagraph means final administrative action at the State or local government level so that a party can commence action under the subparagraph rather than waiting for the exhaustion of any independent State court remedy otherwise required.

With respect to the availability of Federal property for the use of wireless telecommunications infrastructure sites under section 704(c), the conferees generally adopt the House provisions, but substitute the President or his designee for the Commission.

It should be noted that the provisions relating to telecommunications facilities are not limited to commercial mobile radio licenses, but also will include other Commission licensed wireless common carriers such as point to point microwave in the extremely high frequency portion of the electromagnetic spectrum which rely on line of sight for transmitting communication services.

**SECTION 706—MOBILE SERVICE DIRECT ACCESS TO LONG DISTANCE CARRIERS**

*Senate bill*

Subsection (b) of section 221 of the Senate bill, as passed, states that notwithstanding the MFJ or any other consent decree, no CMS provider will be required by court order or otherwise to provide long distance equal access. The Commission may only order equal access if a CMS provider is subject to the interconnection obligations of section 251 and if the Commission finds that such a requirement is in the public interest. CMS providers shall ensure that its subscribers can obtain unblocked access to the interexchange carrier of their choice through the use of interexchange carrier identification codes, except that the unblocking requirement shall not apply to mobile satellite services unless the Commission finds it is in the public interest.

*House amendment*

Under section 109 of the House amendment, the Commission shall require providers of two-way switched voice CMS to allow their subscribers to access the telephone toll services provider of their choice through the use of carrier identification codes. The Commission rules will supersede the equal access, balloting and prescription requirements imposed by the MFJ and the AT&T-McCaw consent decree. The Commission may exempt carriers or classes of carriers from the requirements of this section if it is consistent with the public interest, convenience, and necessity, and the

# **EXHIBIT VII**

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## INSIDE

### PHONE PROBES

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#### Phone Probes

The FCC and a Senate committee want to know why competition has not increased among telephone carriers 18 months after passage of a law designed to encourage such rivalry.

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# Telephone Market Probes Planned

## FCC, Senate Ask Why Competition Is On Hold

By Paul Furti

Washington Post Staff Writer

Frustrated over the lack of progress in opening up the nation's telecommunications markets to competition, the nation's top telephone overseers said yesterday they want to investigate the problem.

Sen. John McCain (R-Ariz.), chairman of the powerful Commerce Committee, and the Federal Communications Commission both said they will launch separate inquiries into what's wrong and what can be done about it.

Nearly 18 months after Congress passed the Telecommunications Act of 1996, it's clear that consumers have seen little of the competitive frenzy that lawmakers said would result from allowing local and long-distance phone companies and cable TV companies to enter one another's businesses. In fact, the opposite has happened: Local phone and cable rates have continued to rise, while would-be telephone competitors have merged rather than fought.

What's not clear is who, or what, is to blame. Both sides of the phone industry continue to point fingers at the other, and some argue that the government itself is responsible for the stalemata.

Long-distance companies such as AT&T Corp. and MCI Communications Corp. accuse the regional Bell companies of failing to open their local networks to companies that want to use the lines to provide a competing dial tone, as the law requires. Would-be local competitors need to piggyback on those lines to avoid the prohibitive expense of building duplicate local networks.

Last week, MCI said it expects its



McCain, who has long maintained that the law wasn't sufficiently deregulatory to promote competition fast-

enough McCain

committee to launch inquiry

new local phone division in. Too about \$800 million this year, and still more next year, partly because of what MCI termed "anti-competitive tactics" by local phone companies. At the same time, MCI said it expects its long-distance revenue to fall about 10 percent below expectations in the next 18 months because of intensifying price competition.

The Bells, which hold regional monopolies, say they have been as hospitable to competitors as possible. They also complain that the FCC has placed too many regulatory barriers in front of their efforts to enter the long-distance market.

The Bells say that long-distance companies don't really want to get into the \$100 billion local phone market anyway, since doing so

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## Regulators Ask Why Phone Firms' Rivalry Is Sluggish

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would make the deep-pocketed Bells eligible to enter the \$70 billion long-distance business that AT&T, MCI and Sprint dominate.

"If anyone is having a real problem [entering a local market], we will remedy it," BellSouth Corp. spokesman John Schneider said yesterday. "But most of these problems are baloney. As long as [long-distance companies] keep crying fire in a crowded theater, we'll be kept from seeing the movie—we'll be kept out of long distance."

Responds AT&T's Mark Rosenblum: "It's a natural tendency of monopolists to want to hold on to their monopolies as long as possible."

McCain, whose committee holds sway over the telecommunications sector, said he will hold hearings to focus public attention on the problem.

"We'll try to build a case that the promise of the Telecommunications Act has not come to fruition," said McCain, who has long maintained that the law wasn't sufficiently deregulatory to promote competition fast-enough. But McCain added that it was unlikely Congress would make changes in the law soon.

The FCC announced yesterday it will create a task force of commission employees to "identify trouble spots" and investigate actions that may be delaying competition. The task force appears to have been prompted by complaints made to the FCC in the past two weeks by AT&T and MCI.

Indeed, the agency yesterday singled out the local phone market as the primary target of its investigative actions, which officials said could lead to new rules to tighten any loopholes in existing regulations.

### FOR MORE INFORMATION

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