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107TH CONGRESS
1ST SESSION

H. R. 1542

[Report No. 107-83, Parts I and II]

To deregulate the Internet and high speed data services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 2001

Mr. TAUZIN (for himself, Mr. DINGELL, Mr. GOODLATTE, Mr. BOUCHER, Mr. ENGLISH, Mr. FROST, Mr. SMITH of Washington, Mr. LUCAS of Kentucky, Mr. WHITFIELD, Mr. MURTHA, Mr. COLLINS, Mr. BLAGOJEVICH, Mr. FOSSELLA, Mr. DICKS, Mr. GILLMOR, Mr. BARTON of Texas, Mr. KIND, Mr. GREENWOOD, Mr. MEEKS of New York, Mr. CAMP, Mr. BALDACCI, Mr. RAHALL, Mr. HOLDEN, Mrs. MCCARTHY of New York, Mr. BRADY of Pennsylvania, Mr. SIMPSON, Mr. BOYD, Mrs. NORTHUP, Mr. ENGEL, Mr. SANDLIN, Mr. EVERETT, Mr. BOEHNER, Mr. REYNOLDS, Mr. WELDON of Pennsylvania, Mr. SESSIONS, Mr. BONIOR, Mr. MALONEY of Connecticut, Mr. BUYER, Mr. CUNNINGHAM, Mr. MCCREERY, Mr. BISHOP, Mr. LAMPSON, Mr. VITTER, Mr. BASS, Mr. ACKERMAN, Mr. BLUNT, Mr. McHUGH, Mr. RYAN of Wisconsin, Mr. QUINN, Mr. BACA, Mr. GONZALEZ, Mr. BAKER, Mr. WALSH, Mr. GREEN of Texas, Mr. WEXLER, Mr. OXLEY, Mr. RADANOVICH, Mr. DIAZ-BALART, Mr. COOKSEY, Mr. CLEMENT, Mr. LARSEN of Washington, Mr. SCHROCK, Mr. PETRI, Mr. WATKINS, Ms. ROS-LEHTINEN, Mr. HILLIARD, Mr. OTTER, Mr. SHADEGG, Mr. BRYANT, Mr. PLATTS, Mr. PUTNAM, Mr. CUMMINGS, Mr. RODRIGUEZ, Mr. CONDIT, Mr. BURR of North Carolina, and Mr. WYNN) introduced the following bill; which was referred to the Committee on Energy and Commerce

MAY 24, 2001

Reported by the Committee on Energy and Commerce with an amendment

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

MAY 24, 2001

Referred to the Committee on the Judiciary for a period ending not later than June 18, 2001 for consideration of such provisions of the bill and amend-

ment recommended by the Committee on Energy and Commerce as proposed to narrow the purview of the Attorney General under section 271 of the Communications Act of 1934

JUNE 18, 2001

Additional sponsors: Mr. SWEENEY, Mr. GRUCCI, Mr. TURNER, Mr. GALLEGLY, Mr. BACHUS, Mr. FOLEY, Ms. GRANGER, Mr. CROWLEY, Mr. LEVIN, Mr. RANGEL, Mr. VISCLOSKY, Mr. HILLEARY, Mr. BONILLA, Mr. FLETCHER, Mr. BENTSEN, Mr. RILEY, Mr. REYES, Mr. BERRY, Mr. SHOWS, Ms. BROWN of Florida, Mr. WELDON of Florida, Ms. BALDWIN, Mr. TANCREDO, Mrs. MEEK of Florida, Mr. HAYES, Mr. ROSS, Mr. LAHOOD, Mr. ACEVEDO-VILÁ, Mr. MOLLOHAN, Mr. HASTINGS of Florida, Mr. ORTIZ, Mr. KILDEE, Mr. ALLEN, Mr. SERRANO, Mr. BROWN of South Carolina, Mr. SMITH of Texas, and Mr. LATOURETTE

JUNE 18, 2001

Reported with amendments, adversely, from the Committee on the Judiciary, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through in italic and insert the part printed in boldface roman]

[For text of introduced bill, see copy of bill as introduced on April 24, 2001]

A BILL

To deregulate the Internet and high speed data services,
and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the "Internet Freedom and*
5 *Broadband Deployment Act of 2001".*

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 *(a) FINDINGS.—Congress finds the following:*

1 (1) *Internet access services are inherently inter-*
2 *state and international in nature, and should there-*
3 *fore not be subject to regulation by the States.*

4 (2) *The imposition of regulations by the Federal*
5 *Communications Commission and the States has im-*
6 *peded the rapid delivery of high speed Internet access*
7 *services and Internet backbone services to the public,*
8 *thereby reducing consumer choice and welfare.*

9 (3) *The Telecommunications Act of 1996 rep-*
10 *resented a careful balance between the need to open*
11 *up local telecommunications markets to competition*
12 *and the need to increase competition in the provision*
13 *of interLATA voice telecommunications services.*

14 (4) *In enacting the prohibition on Bell operating*
15 *company provision of interLATA services, Congress*
16 *recognized that certain telecommunications services*
17 *have characteristics that render them incompatible*
18 *with the prohibition on Bell operating company pro-*
19 *vision of interLATA services, and exempted such serv-*
20 *ices from the interLATA prohibition.*

21 (5) *High speed data services and Internet back-*
22 *bone services constitute unique markets that are like-*
23 *wise incompatible with the prohibition on Bell oper-*
24 *ating company provision of interLATA services.*

1 (6) *Since the enactment of the Telecommuni-*
2 *cations Act of 1996, the Federal Communications*
3 *Commission has construed the prohibition on Bell op-*
4 *erating company provision of interLATA services in*
5 *a manner that has impeded the development of ad-*
6 *vanced telecommunications services, thereby limiting*
7 *consumer choice and welfare.*

8 (7) *Internet users should have choice among com-*
9 *peting Internet service providers.*

10 (8) *Internet service providers should have the*
11 *right to interconnect with high speed data networks*
12 *in order to provide service to Internet users.*

13 (b) *PURPOSES.—It is therefore the purpose of this Act*
14 *to provide market incentives for the rapid delivery of ad-*
15 *vanced telecommunications services—*

16 (1) *by deregulating high speed data services,*
17 *Internet backbone services, and Internet access serv-*
18 *ices;*

19 (2) *by clarifying that the prohibition on Bell op-*
20 *erating company provision of interLATA services does*
21 *not extend to the provision of high speed data services*
22 *and Internet backbone services;*

23 (3) *by ensuring that consumers can choose*
24 *among competing Internet service providers; and*

1 (4) by ensuring that Internet service providers
2 can interconnect with competitive high speed data
3 networks in order to provide Internet access service to
4 the public.

5 **SEC. 3. DEFINITIONS**

6 (a) *AMENDMENTS.*—Section 3 of the Communications
7 Act of 1934 (47 U.S.C. 153) is amended—

8 (1) by redesignating paragraph (20) as para-
9 graph (21);

10 (2) by redesignating paragraphs (21) through
11 (52) as paragraphs (26) through (57), respectively;

12 (3) by inserting after paragraph (19) the fol-
13 lowing new paragraph:

14 “(20) *HIGH SPEED DATA SERVICE.*—The term
15 ‘high speed data service’ means any service that con-
16 sists of or includes the offering of a capability to
17 transmit, using a packet-switched or successor tech-
18 nology, information at a rate that is generally not
19 less than 384 kilobits per second in at least one direc-
20 tion. Such term does not include special access service
21 offered through dedicated transport links between a
22 customer’s premises and an interexchange carrier’s
23 switch or point of presence.”;

24 (4) by inserting after paragraph (21) the fol-
25 lowing new paragraphs:

1 “(22) *INTERNET*.—The term ‘Internet’ means
2 collectively the myriad of computer and telecommuni-
3 cations facilities, including equipment and operating
4 software, which comprise the interconnected world-
5 wide network of networks that employ the Trans-
6 mission Control Protocol/Internet Protocol, or any
7 predecessor or successor protocols to such protocol, to
8 communicate information of all kinds by wire or
9 radio.

10 “(23) *INTERNET ACCESS SERVICE*.—The term
11 ‘Internet access service’ means a service that combines
12 computer processing, information storage, protocol
13 conversion, and routing with transmission to enable
14 users to access Internet content and services.

15 “(24) *INTERNET BACKBONE*.—The term ‘Internet
16 backbone’ means a network that carries Internet traf-
17 fic over high-capacity long-haul transmission facili-
18 ties and that is interconnected with other such net-
19 works via private peering relationships.

20 “(25) *INTERNET BACKBONE SERVICE*.—The term
21 ‘Internet backbone service’ means any interLATA
22 service that consists of or includes the transmission by
23 means of an Internet backbone of any packets, and
24 shall include related local connectivity.”

25 (b) *CONFORMING AMENDMENTS*.—

1 (1) Section 230(f) of the Communications Act of
2 1934 (47 U.S.C. 230(f)) is amended—

3 (A) by striking paragraph (1); and

4 (B) by redesignating paragraphs (2)
5 through (4) as paragraphs (1) through (3), re-
6 spectively.

7 (2) Section 223(h)(2) of such Act (47 U.S.C.
8 223(h)(2)) is amended by striking “230(f)(2)” and in-
9 serting “230(f)(1)”.

10 **SEC. 4. LIMITATION ON AUTHORITY TO REGULATE HIGH**
11 **SPEED DATA SERVICES.**

12 (a) *IN GENERAL.*—Part I of title II of the Communica-
13 tions Act of 1934 (47 U.S.C. 201 et seq.) is amended by
14 adding at the end the following new section:

15 **“SEC. 232. PROVISION OF HIGH SPEED DATA SERVICES.**

16 “(a) *FREEDOM FROM REGULATION.*—Except to the ex-
17 tent that high speed data service, Internet backbone service,
18 and Internet access service are expressly referred to in this
19 Act, neither the Commission, nor any State, shall have au-
20 thority to regulate the rates, charges, terms, or conditions
21 for, or entry into the provision of, any high speed data serv-
22 ice, Internet backbone service, or Internet access service, or
23 to regulate any network element to the extent it is used in
24 the provision of any such service; nor shall the Commission

1 *impose or require the collection of any fees, taxes, charges,*
2 *or tariffs upon such service.*

3 “(b) *SAVINGS PROVISION.*—*Nothing in this section*
4 *shall be construed to limit or affect the authority of any*
5 *State to regulate circuit-switched telephone exchange serv-*
6 *ices, nor affect the rights of cable franchise authorities to*
7 *establish requirements that are otherwise consistent with*
8 *this Act.*

9 “(c) *CONTINUED ENFORCEMENT OF ESP EXEMPTION,*
10 *UNIVERSAL SERVICE RULES PERMITTED.*—*Nothing in this*
11 *section shall affect the ability of the Commission to retain*
12 *or modify—*

13 “(1) *the exemption from interstate access charges*
14 *for enhanced service providers under Part 69 of the*
15 *Commission’s regulations, and the requirements of the*
16 *MTS/WATS Market Structure Order (97 FCC 2d*
17 *682, 715 (1983)); or*

18 “(2) *rules issued pursuant to section 254.*”.

19 “(b) *CONFORMING AMENDMENT.*—*Section 251 of the*
20 *Communications Act of 1934 (47 U.S.C. 251) is amended*
21 *by adding at the end thereof the following new subsection:*

22 “(j) *EXEMPTION.*—

23 “(1) *ACCESS TO NETWORK ELEMENTS FOR HIGH*
24 *SPEED DATA SERVICE.*—

1 “(A) *LIMITATION.*—Subject to subpara-
2 graphs (B), (C), and (D) of this paragraph, nei-
3 ther the Commission nor any State shall require
4 an incumbent local exchange carrier to provide
5 unbundled access to any network element for the
6 provision of any high speed data service.

7 “(B) *PRESERVATION OF REGULATIONS AND*
8 *LINE SHARING ORDER.*—Notwithstanding sub-
9 paragraph (A), the Commission shall, to the ex-
10 tent consistent with subsections (c)(3) and (d)(2),
11 require the provision of unbundled access to those
12 network elements described in section 51.319 of
13 the Commission’s regulations (47 C.F.R. 51.319),
14 as—

15 “(i) in effect on January 1, 1999; and

16 “(ii) subject to subparagraphs (C) and
17 (D), as modified by the Commission’s Line
18 Sharing Order.

19 “(C) *EXCEPTIONS TO PRESERVATION OF*
20 *LINE SHARING ORDER.*—

21 “(i) *UNBUNDLED ACCESS TO REMOTE*
22 *TERMINAL NOT REQUIRED.*—An incumbent
23 local exchange carrier shall not be required
24 to provide unbundled access to the high fre-

1 quency portion of the loop at a remote ter-
2 minal.

3 “(ii) CHARGES FOR ACCESS TO HIGH
4 FREQUENCY PORTION.—The Commission
5 and the States shall permit an incumbent
6 local exchange carrier to charge requesting
7 carriers for the high frequency portion of a
8 loop an amount equal to which such incum-
9 bent local exchange carrier imputes to its
10 own high speed data service.

11 “(D) LIMITATIONS ON REINTERPRETATION
12 OF LINE SHARING ORDER.—Neither the Commis-
13 sion nor any State Commission shall construe,
14 interpret, or reinterpret the Commission’s Line
15 Sharing Order in such manner as would expand
16 an incumbent local exchange carrier’s obligation
17 to provide access to any network element for the
18 purpose of line sharing.

19 “(E) AUTHORITY TO REDUCE ELEMENTS
20 SUBJECT TO REQUIREMENT.—This paragraph
21 shall not prohibit the Commission from modi-
22 fying the regulation referred to in subparagraph
23 (B) to reduce the number of network elements
24 subject to the unbundling requirement, or to for-
25 bear from enforcing any portion of that regula-

1 tion in accordance with the Commission's au-
2 thority under section 706 of the Telecommuni-
3 cations Act of 1996, notwithstanding any limita-
4 tion on that authority in section 10 of this Act.

5 “(F) PROHIBITION ON DISCRIMINATORY
6 SUBSIDIES.—Any network element used in the
7 provision of high speed data service that is not
8 subject to the requirements of subsection (c) shall
9 not be entitled to any subsidy, including any
10 subsidy pursuant to section 254, that is not pro-
11 vided on a nondiscriminatory basis to all pro-
12 viders of high speed data service and Internet ac-
13 cess service. This prohibition on discriminatory
14 subsidies shall not be interpreted to authorize or
15 require the extension of any subsidy to any pro-
16 vider of high speed data service or Internet ac-
17 cess service.

18 “(2) RESALE.—For a period of three years after
19 the enactment of this subsection, an incumbent local
20 exchange carrier that provides high speed data service
21 shall have a duty to offer for resale any such service
22 at wholesale rates in accordance with subsection
23 (c)(4). After such three-year period, such carrier shall
24 offer such services for resale pursuant to subsection
25 (b)(1).

1 “(3) *DEFINITIONS.*—For purposes of this
2 subsection—

3 “(A) the ‘Commission’s Line Sharing
4 Order’ means the Third Report and Order in CC
5 Docket No. 98–147 and the Fourth Report and
6 Order in CC Docket 96–98 (FCC 99–355), as
7 adopted November 18, 1999, and without regard
8 to any clarification or interpretation in the fur-
9 ther notice of proposed rulemaking in such Dock-
10 ets adopted January 19, 2001 (FCC 01–26); and

11 “(B) the term ‘remote terminal’ means an
12 accessible terminal located outside of the central
13 office to which analog signals are carried from
14 customer premises, in which such signals are
15 converted to digital, and from which such signals
16 are carried, generally over fiber, to the central
17 office.”.

18 (c) *PRESERVATION OF EXISTING INTERCONNECTION*
19 *AGREEMENTS.*—Nothing in the amendments made by this
20 section—

21 (1) shall be construed to permit or require the
22 abrogation or modification of any interconnection
23 agreement in effect on the date of enactment of this
24 section during the term of such agreement, except that
25 this paragraph shall not apply to any interconnection

1 agreement beyond the expiration date of the existing
2 current term contained in such agreement on the date
3 of enactment of this section, without regard to any ex-
4 tension or renewal of such agreement; or

5 (2) affects the implementation of any change of
6 law provision in any such agreement.

7 **SEC. 5. INTERNET CONSUMERS FREEDOM OF CHOICE.**

8 Part I of title II of the Communications Act of 1934,
9 as amended by section 4, is amended by adding at the end
10 the following new section:

11 **"SEC. 233. INTERNET CONSUMERS FREEDOM OF CHOICE.**

12 "(a) *PURPOSE.*—It is the purpose of this section to en-
13 sure that Internet users have freedom of choice of Internet
14 service provider.

15 "(b) *OBLIGATIONS OF INCUMBENT LOCAL EXCHANGE*
16 *CARRIERS.*—Each incumbent local exchange carrier has the
17 duty to provide—

18 "(1) Internet users with the ability to subscribe
19 to and have access to any Internet service provider
20 that interconnects with such carrier's high speed data
21 service;

22 "(2) any Internet service provider with the right
23 to acquire the facilities and services necessary to
24 interconnect with such carrier's high speed data serv-
25 ice for the provision of Internet access service;

1 “(3) any Internet service provider with the abil-
2 ity to collocate equipment in accordance with the pro-
3 visions of section 251, to the extent necessary to
4 achieve the objectives of paragraphs (1) and (2) of
5 this subsection; and

6 “(4) any provider of high speed data services,
7 Internet backbone service, or Internet access service
8 with special access for the provision of Internet access
9 service within a period no longer than the period in
10 which such incumbent local exchange carrier provides
11 special access to itself or any affiliate for the provi-
12 sion of such service.

13 “(c) DEFINITIONS.—As used in this section—

14 “(1) INTERNET SERVICE PROVIDER.—The term
15 ‘Internet service provider’ means any provider of
16 Internet access service.

17 “(2) INCUMBENT LOCAL EXCHANGE CARRIER.—
18 The term ‘incumbent local exchange carrier’ has the
19 same meaning as provided in section 251(h).

20 “(3) SPECIAL ACCESS SERVICE.—The term ‘spe-
21 cial access service’ means the provision of dedicated
22 transport links between a customer’s premises and the
23 switch or point of presence of a high speed data serv-
24 ice provider, Internet backbone service provider, or
25 Internet service provider.”.

1 **SEC. 6. INCIDENTAL INTERLATA PROVISION OF HIGH**
2 **SPEED DATA AND INTERNET BACKBONE**
3 **SERVICES.**

4 (a) *INCIDENTAL INTERLATA SERVICE PERMITTED.*—
5 *Section 271(g) of the Communications Act of 1934 (47*
6 *U.S.C. 271(g)) is amended—*

7 (1) *by striking “or” at the end of paragraph (5);*

8 (2) *by striking the period at the end of para-*
9 *graph (6) and inserting “; or”; and*

10 (3) *by adding at the end thereof the following*
11 *new paragraph:*

12 “(7) *of high speed data service or Internet back-*
13 *bone service, subject to subsection (l).”.*

14 (b) *PROHIBITION ON PROVISION OF VOICE TELE-*
15 *PHONE SERVICES.*—*Section 271 of such Act is amended by*
16 *adding at the end thereof the following new subsection:*

17 “(k) *PROHIBITION ON PROVISION OF VOICE TELE-*
18 *PHONE SERVICES.*—*Until the date on which a Bell oper-*
19 *ating company is authorized to offer interLATA services*
20 *originating in an in-region State in accordance with the*
21 *provisions of this section, such Bell operating company of-*
22 *fering any high speed data service or Internet backbone*
23 *service pursuant to the provisions of paragraph (7) of sub-*
24 *section (g) may not, in such in-region State provide*
25 *interLATA voice telecommunications service, regardless of*
26 *whether there is a charge for such service, by means of the*

1 *high speed data service or Internet backbone service pro-*
2 *vided by such company.”.*

3 **(c) APPLICATION PREREQUISITE TO PRO-**
4 **VIDING HIGH SPEED DATA SERVICE OR INTERNET**
5 **BACKBONE SERVICE.—Section 271 of the Com-**
6 **munications Act of 1934 (47 U.S.C. 271), as**
7 **amended by subsection (b), is amended by**
8 **adding at the end the following:**

9 **“(1) APPLICATION PREREQUISITE TO PRO-**
10 **VIDING HIGH SPEED DATA SERVICE OR INTERNET**
11 **BACKBONE SERVICE.—**

12 **“(1) REQUIREMENT TO FILE APPLICATION**
13 **WITH ATTORNEY GENERAL OF THE UNITED**
14 **STATES.—Neither a Bell operating com-**
15 **pany, nor any affiliate of a Bell operating**
16 **company, may begin providing high**
17 **speed data service or Internet backbone**
18 **service in any in-region State under the**
19 **authority of subsection (g)(7)—**

20 **“(A) unless it files with the Attor-**
21 **ney General of the United States an**
22 **application to provide such service;**
23 **and**

24 **“(B) until the Attorney General —**

1 “(i) approves such application
2 before the expiration of the 90-
3 day period beginning on the date
4 such application is filed; or

5 “(ii) fails to approve or to dis-
6 approve such application during
7 such 90-day period.

8 “(2) AUTHORITY OF ATTORNEY GEN-
9 ERAL.—The Attorney General of the
10 United States—

11 “(A) may issue rules to establish
12 requirements applicable to the form
13 and contents of applications filed
14 under paragraph (1);

15 “(B) may make recommendations
16 to an applicant regarding—

17 “(i) withdrawal of an applica-
18 tion filed under paragraph (1); or

19 “(ii) filing of an application
20 under paragraph (1), with or
21 without modifications, subse-
22 quent to the withdrawal of an ap-
23 plication filed under such para-
24 graph; and

1 “(C) may not approve an applica-
2 tion filed in compliance with this sub-
3 section unless the Attorney General
4 determines that the applicant has
5 demonstrated that it meets the sub-
6 stantive requirements of subsections
7 (c) and (d) with respect to high speed
8 data service or Internet backbone
9 service in the State for which such
10 application is filed.

11 “(3) WITHDRAWAL OF APPLICATION.—An
12 application filed under paragraph (1)
13 may be withdrawn by the applicant at
14 any time before the Attorney General ap-
15 proves or disapproves such application,
16 but may not be modified after being
17 filed.”.

18 ~~(e)~~ (d) CONFORMING AMENDMENTS.—

19 (1) Section 272(a)(2)(B)(i) of such Act is
20 amended to read as follows:

21 “(i) incidental interLATA services de-
22 scribed in paragraphs (1), (2), (3), (5), (6),
23 and (7) of section 271(g);”.

24 (2) Section 272(a)(2)(C) of such Act is repealed.

1 (e) **CONTINUED FULL APPLICATION OF THE**
2 **ANTITRUST LAWS TO MATTERS INVOLVED IN THE**
3 **TELECOMMUNICATIONS INDUSTRY.—Section**
4 **601(b) of the Telecommunications Act of 1996**
5 **(47 U.S.C. 152 note) is amended by adding at**
6 **the end the following:**

7 “(4) **CONTINUING OPERATION OF THE**
8 **ANTITRUST LAWS.—The rights, obligations,**
9 **powers, and remedies provided under the**
10 **antitrust laws are in addition to, and**
11 **are—**

12 “(A) **not preempted by;**

13 “(B) **not inconsistent with; and**

14 “(C) **not incompatible with;**

15 **any of the rights, obligations, powers,**
16 **and remedies provided under the Com-**
17 **munications Act of 1934 (47 U.S.C. 151 et**
18 **seq.), under this Act, or under any law**
19 **amended by either such Act, regardless of**
20 **the progress of competition in any mar-**
21 **ket.”.**

22 **SEC. 7. DEPLOYMENT OF BROADBAND SERVICES.**

23 *Part III of title II of the Communications Act of 1934*
24 *is amended by inserting after section 276 (47 U.S.C. 276)*
25 *the following new section:*

1 **"SEC. 277. DEPLOYMENT OF BROADBAND SERVICES.**

2 “(a) *DEPLOYMENT REQUIRED.*—Each Bell operating
3 company and its affiliates shall deploy high speed data
4 services in each State in which such company or affiliate
5 is an incumbent local exchange carrier (as such term is de-
6 fined in section 251(h)) in accordance with the require-
7 ments of this section.

8 “(b) *DEPLOYMENT REQUIREMENTS.*—

9 “(1) *MILEPOSTS FOR DEPLOYMENT.*—A Bell op-
10 erating company or its affiliate shall deploy high
11 speed data services by attaining high speed data ca-
12 pability in its central offices in each State to which
13 subsection (a) applies. Such company or affiliate
14 shall attain such capability in accordance with the
15 following schedule:

16 “(A) Within one year after the date of en-
17 actment of this section, such company or affiliate
18 shall attain high speed data capability in not
19 less than 20 percent of such central offices in
20 such State.

21 “(B) Within 2 years after the date of enact-
22 ment of this section, such company or affiliate
23 shall attain high speed data capability in not
24 less than 40 percent of such central offices in
25 such State.

1 “(C) Within 3 years after the date of enact-
2 ment of this section, such company or affiliate
3 shall attain high speed data capability in not
4 less than 70 percent of such central offices in
5 such State.

6 “(D) Within 5 years after the date of enact-
7 ment of this section, such company or affiliate
8 shall attain high speed data capability in not
9 less than 100 percent of such central offices in
10 such State.

11 “(2) HIGH SPEED DATA CAPABILITY.—For pur-
12 poses of paragraph (1), a central office shall be con-
13 sidered to have attained high speed capability if—

14 “(A)(i) such central office is equipped with
15 high speed data multiplexing capability; and

16 “(ii) each upgradeable customer loop that
17 originates or terminates in such central office is
18 upgraded promptly upon receipt of a customer
19 request for such upgrading, as necessary to per-
20 mit transmission of high speed data service (in-
21 cluding any conditioning of the loop);

22 “(B) each customer served by such central
23 office (without regard to the upgradeability or
24 length of the customer’s loop) is able to obtain
25 the provision of high speed data service from

1 *such Bell operating company or its affiliate by*
2 *means of an alternative technology that does not*
3 *involve the use of the customer's loop; or*

4 “(C) *each such customer is able to obtain*
5 *the provision of high speed data service by one*
6 *or the other of the means described in subpara-*
7 *graphs (A) and (B).*

8 “(3) *UPGRADEABLE LOOPS.—For purposes of*
9 *paragraph (2), a customer loop is upgradeable if—*

10 “(A) *such loop is less than 15,000 feet in*
11 *length (from the central office to the customer's*
12 *premises along the line); and*

13 “(B) *such loop can, with or without condi-*
14 *tioning, transmit high speed data services with-*
15 *out such transmission on such loop causing sig-*
16 *nificant degradation of voice service.*

17 “(c) *AVAILABILITY OF REMEDIES.—*

18 “(1) *FORFEITURE PENALTIES.—A Bell operating*
19 *company or its affiliate that fails to comply with this*
20 *section shall be subject to the penalties provided in*
21 *section 503(b)(2). In determining whether to impose*
22 *a forfeiture penalty, and in determining the amount*
23 *of any forfeiture penalty under section 503(b)(2)(D),*
24 *the Commission shall take into consideration the ex-*

1 *tent to which the requirements of this section are tech-*
2 *nically infeasible.*

3 *“(2) JURISDICTION.—The Commission shall have*
4 *exclusive jurisdiction to enforce the requirements of*
5 *this section, except that any State commission may*
6 *file a complaint with the Commission seeking the im-*
7 *position of penalties as provided in paragraph (1).*

8 *“(d) ANNUAL REPORT ON DEPLOYMENT.—*

9 *“(1) ANALYSIS REQUIRED.—The Commission*
10 *shall include in each of its annual reports submitted*
11 *no more than 18 months after the date of enactment*
12 *of this section an analysis of the deployment of high*
13 *speed data service to underserved areas. Such report*
14 *shall include—*

15 *“(A) a statistical analysis of the extent to*
16 *which high speed data service has been deployed*
17 *to central offices and customer loops, or is avail-*
18 *able using different technologies, as compared*
19 *with the extent of such deployment and avail-*
20 *ability prior to such date and in prior reports*
21 *under this subsection;*

22 *“(B) a breakdown of the delivery of high*
23 *speed data service by type of technology and*
24 *class or category of provider;*

1 “(C) an identification of impediments to
2 such deployment and availability, and develop-
3 ments in overcoming such impediments during
4 the intervening period between such reports; and

5 “(D) recommendations of the Commission,
6 after consultation with the National Tele-
7 communications and Information Administra-
8 tion, for further extending such deployment and
9 availability and overcoming such impediments.

10 “(2) DEFINITION OF UNDERSERVED AREA.—For
11 purposes of paragraph (1), the term ‘underserved
12 areas’ means areas that—

13 “(A) are high cost areas that are eligible for
14 services under subpart D of part 54 of the Com-
15 mission’s regulations (47 C.F.R. 54.301 et seq.);
16 or

17 “(B) are within or comprised of any census
18 tract—

19 “(i) the poverty level of which is at
20 least 30 percent (based on the most recent
21 census data); or

22 “(ii) the median family income of
23 which does not exceed—

24 “(I) in the case of a census tract
25 located in a metropolitan statistical

1 area, 70 percent of the greater of the
2 metropolitan area median family in-
3 come or the statewide median family
4 income; and

5 “(II) in the case of a census tract
6 located in a nonmetropolitan statis-
7 tical area, 70 percent of the nonmetro-
8 politan statewide median family in-
9 come.

10 “(3) DESIGNATION OF CENSUS TRACTS.—The
11 Commission shall, not later than 90 days after the
12 date of the enactment of this section, designate and
13 publish those census tracts meeting the criteria de-
14 scribed in paragraph (2)(B).”

15 **SEC. 8. COMMISSION AUTHORIZED TO PRESCRIBE JUST**
16 **AND REASONABLE CHARGES.**

17 *The Federal Communications Commission may im-*
18 *pose penalties under section 503 of the Communications Act*
19 *of 1934 not to exceed \$1,000,000 for any violation of provi-*
20 *sions contained in, or amended by, section 5, 6, or 7 (or*
21 *any combination thereof) of this Act. Each distinct viola-*
22 *tion shall be a separate offense, and in the case of a con-*
23 *tinuing violation, each day shall be deemed a separate of-*
24 *fense, except that the amount assessed for any continuing*
25 *violation shall not exceed a total of \$10,000,000 for any*

- 1 *single act or failure to act described in section 5, 6, or 7*
- 2 *(or any combination thereof) of this Act.*