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2<sup>D</sup> SESSION

# H. R. 1542

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2002

Received; read twice and referred to the Committee on Commerce, Science,  
and Transportation

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## AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Internet Freedom and  
3 Broadband Deployment Act of 2001”.

4 **SEC. 2. FINDINGS AND PURPOSE.**

5 (a) FINDINGS.—Congress finds the following:

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

9 (2) The imposition of regulations by the Fed-  
10 eral Communications Commission and the States  
11 has impeded the rapid delivery of high speed Inter-  
12 net access services and Internet backbone services to  
13 the public, thereby reducing consumer choice and  
14 welfare.

15 (3) The Telecommunications Act of 1996 rep-  
16 resented a careful balance between the need to open  
17 up local telecommunications markets to competition  
18 and the need to increase competition in the provision  
19 of interLATA voice telecommunications services.

20 (4) In enacting the prohibition on Bell oper-  
21 ating company provision of interLATA services,  
22 Congress recognized that certain telecommunications  
23 services have characteristics that render them in-  
24 compatible with the prohibition on Bell operating  
25 company provision of interLATA services, and ex-

1       empted such services from the interLATA prohibi-  
2       tion.

3               (5) High speed data services and Internet back-  
4       bone services constitute unique markets that are  
5       likewise incompatible with the prohibition on Bell  
6       operating company provision of interLATA services.

7               (6) Since the enactment of the Telecommuni-  
8       cations Act of 1996, the Federal Communications  
9       Commission has construed the prohibition on Bell  
10      operating company provision of interLATA services  
11      in a manner that has impeded the development of  
12      advanced telecommunications services, thereby lim-  
13      iting consumer choice and welfare.

14              (7) Internet users should have choice among  
15      competing Internet service providers.

16              (8) Internet service providers should have the  
17      right to interconnect with high speed data networks  
18      in order to provide service to Internet users.

19      (b) PURPOSES.—It is therefore the purpose of this  
20      Act to provide market incentives for the rapid delivery of  
21      advanced telecommunications services—

22              (1) by deregulating high speed data services,  
23      Internet backbone services, and Internet access serv-  
24      ices;

1           (2) by clarifying that the prohibition on Bell op-  
2           erating company provision of interLATA services  
3           does not extend to the provision of high speed data  
4           services and Internet backbone services;

5           (3) by ensuring that consumers can choose  
6           among competing Internet service providers; and

7           (4) by ensuring that Internet service providers  
8           can interconnect with competitive high speed data  
9           networks in order to provide Internet access service  
10          to the public.

11 **SEC. 3. DEFINITIONS**

12          (a) AMENDMENTS.—Section 3 of the Communica-  
13          tions Act of 1934 (47 U.S.C. 153) is amended—

14           (1) by redesignating paragraph (20) as para-  
15           graph (21);

16           (2) by redesignating paragraphs (21) through  
17           (52) as paragraphs (26) through (57), respectively;

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

20           “(20) HIGH SPEED DATA SERVICE.—The term  
21           ‘high speed data service’ means any service that con-  
22           sists of or includes the offering of a capability to  
23           transmit, using a packet-switched or successor tech-  
24           nology, information at a rate that is generally not  
25           less than 384 kilobits per second in at least one di-

1 rection. Such term does not include special access  
2 service offered through dedicated transport links be-  
3 tween a customer’s premises and an interexchange  
4 carrier’s switch or point of presence.”;

5 (4) by inserting after paragraph (21) the fol-  
6 lowing new paragraphs:

7 “(22) INTERNET.—The term ‘Internet’ means  
8 collectively the myriad of computer and tele-  
9 communications facilities, including equipment and  
10 operating software, which comprise the inter-  
11 connected world-wide network of networks that em-  
12 ploy the Transmission Control Protocol/Internet  
13 Protocol, or any predecessor or successor protocols  
14 to such protocol, to communicate information of all  
15 kinds by wire or radio.

16 “(23) INTERNET ACCESS SERVICE.—The term  
17 ‘Internet access service’ means a service that com-  
18 bines computer processing, information storage, pro-  
19 tocol conversion, and routing with transmission to  
20 enable users to access Internet content and services.

21 “(24) INTERNET BACKBONE.—The term ‘Inter-  
22 net backbone’ means a network that carries Internet  
23 traffic over high-capacity long-haul transmission fa-  
24 cilities and that is interconnected with other such  
25 networks via private peering relationships.

1           “(25) INTERNET BACKBONE SERVICE.—The  
2 term ‘Internet backbone service’ means any  
3 interLATA service that consists of or includes the  
4 transmission by means of an Internet backbone of  
5 any packets, and shall include related local  
6 connectivity.”.

7 (b) CONFORMING AMENDMENTS.—

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

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

11                   (B) by redesignating paragraphs (2)  
12 through (4) as paragraphs (1) through (3), re-  
13 spectively.

14           (2) Section 223(h)(2) of such Act (47 U.S.C.  
15 223(h)(2)) is amended by striking “230(f)(2)” and  
16 inserting “230(f)(1)”.

17 **SEC. 4. LIMITATION ON AUTHORITY TO REGULATE HIGH**  
18 **SPEED DATA SERVICES.**

19           (a) IN GENERAL.—Part I of title II of the Commu-  
20 nications Act of 1934 (47 U.S.C. 201 et seq.) is amended  
21 by adding at the end the following new section:

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

23           “(a) FREEDOM FROM REGULATION.—Except to the  
24 extent that high speed data service, Internet backbone  
25 service, and Internet access service are expressly referred

1 to in this Act, neither the Commission, nor any State,  
2 shall have authority to regulate the rates, charges, terms,  
3 or conditions for, or entry into the provision of, any high  
4 speed data service, Internet backbone service, or Internet  
5 access service; nor shall the Commission impose or require  
6 the collection of any fees, taxes, charges, or tariffs upon  
7 such service that is not imposed or required on the date  
8 of enactment of this section.

9 “(b) SAVINGS PROVISION.—Nothing in this section  
10 shall be construed to limit or affect the authority of any  
11 State to regulate circuit-switched telephone exchange serv-  
12 ices, nor affect the rights of cable franchise authorities  
13 to establish requirements that are otherwise consistent  
14 with this Act.

15 “(c) CONTINUED ENFORCEMENT OF ESP EXEMP-  
16 TION, UNIVERSAL SERVICE RULES PERMITTED.—Noth-  
17 ing in this section shall affect the ability of the Commis-  
18 sion to retain or modify—

19 “(1) the exemption from interstate access  
20 charges for enhanced service providers under Part  
21 69 of the Commission’s regulations, and the require-  
22 ments of the MTS/WATS Market Structure Order  
23 (97 FCC 2d 682, 715 (1983)); or

24 “(2) rules issued pursuant to section 254.

1       “(d) ADDITIONAL COMMISSION AUTHORITY PRE-  
2 SERVED.—Notwithstanding subsection (a), such sub-  
3 section shall not restrict or affect in any way the authority  
4 of the Commission—

5               “(1) to adopt regulations to prohibit unsolicited  
6 commercial e-mail messages;

7               “(2) to regulate changes in subscriber carrier  
8 selections or the imposition of charges on telephone  
9 bills for unauthorized services; or

10              “(3) with respect to—

11                      “(A) customer proprietary network infor-  
12 mation, as provided in section 222;

13                      “(B) with respect to rules and procedures  
14 adopted pursuant to section 223 to restrict the  
15 provision of pornography to minors and  
16 unconsenting adults; or

17                      “(C) with respect to access by persons with  
18 disabilities, as provided in section 255.”.

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) GUARANTEED ACCESS TO CONSUMERS FOR  
23 CLECs.—

24               “(1) ACCESS RULES.—



1           “(A) PRESERVATION OF RULES GUARAN-  
2           TEERING CLEC ACCESS TO INCUMBENT CARRIER  
3           FACILITIES.—Except as provided in subpara-  
4           graph (E), the Commission is not required to  
5           repeal or modify the regulations in effect on  
6           May 24, 2001, that enable a requesting carrier  
7           to use the facilities of an incumbent local ex-  
8           change carrier to provide high speed data serv-  
9           ices.

10           “(B) TRANSPORT SERVICES AVAILABLE TO  
11           CLECS.—

12           “(i) OFFERING REQUIRED.—If an in-  
13           cumbent local exchange carrier provides  
14           high-speed data services over a fiber local  
15           loop or fiber feeder subloop, that carrier  
16           shall offer, over such loop or subloop for  
17           delivery at the incumbent local exchange  
18           carrier’s serving central office, a high  
19           speed data service that is provided by such  
20           carrier utilizing an industry-standard pro-  
21           tocol.

22           “(ii) TRANSMISSION OPTIONS.—Such  
23           service shall enable a requesting carrier to  
24           transmit information over an incumbent  
25           local exchange carrier’s facilities between

1 that incumbent local exchange carrier's  
2 serving central office and (I) a customer's  
3 premises served by that serving central of-  
4 fice; (II) a remote terminal supplied by the  
5 requesting carrier; or (III) a high fre-  
6 quency portion of the copper subloop ob-  
7 tained by such requesting carrier pursuant  
8 to the provisions of subsection (c)(3).

9 “(iii) RATES, TERMS, AND CONDI-  
10 TIONS.—Such high speed data service shall  
11 be offered on rates, terms, and conditions  
12 that are just and reasonable in accordance  
13 with section 201(b). For such purposes,  
14 such high speed data service shall be  
15 deemed a nondominant service.

16 “(iv) SERVING CENTRAL OFFICE DEF-  
17 INITION.—For the purpose of this sub-  
18 paragraph, the term ‘serving central office’  
19 means the centralized location where the  
20 incumbent local exchange carrier has elect-  
21 ed to provide access to the high speed data  
22 service required by this subparagraph.

23 “(C) SPACE ADJACENT TO AN INCUM-  
24 BENT’S REMOTE TERMINAL.—Subparagraph  
25 (E)(iii) does not relieve an incumbent carrier of

1 any obligation under regulations in effect on  
2 May 24, 2001, to provide space adjacent to its  
3 remote terminal to a requesting carrier so that  
4 the requesting carrier may construct its own re-  
5 mote terminal.

6 “(D) CLEC ACCESS TO INCUMBENT CAR-  
7 RIER RIGHTS-OF-WAY.—Any incumbent local  
8 exchange carrier has the duty to afford access  
9 to its poles, conduits, and rights-of-way in ac-  
10 cordance with subsection (b)(4) for provision of  
11 high speed data service.

12 “(E) SCOPE.—Notwithstanding any provi-  
13 sion of law, neither the Commission nor any  
14 State shall—

15 “(i) require an incumbent local ex-  
16 change carrier to provide unbundled access  
17 in accordance with subsection (c)(3) to any  
18 packet switching network element;

19 “(ii) require an incumbent local ex-  
20 change carrier to provide, for the provision  
21 of high speed data service, access on an  
22 unbundled basis in accordance with sub-  
23 section (c)(3) to any fiber local loop or  
24 fiber feeder subloop; or

1           “(iii) require an incumbent local ex-  
2           change carrier to provide for collocation in  
3           accordance with subsection (c)(6) in a re-  
4           mote terminal, or to construct or make  
5           available space in a remote terminal.

6           “(F)     REINTERPRETATION.—Consistent  
7           with subparagraph (E), neither the Commission  
8           nor any State shall construe, interpret, or apply  
9           this section in such a manner as to expand an  
10          incumbent local exchange carrier’s obligation,  
11          as in effect on May 24, 2001, to provide access  
12          in accordance with subsection (c)(3) to any net-  
13          work element for the provision of high speed  
14          data service, or to provide collocation in accord-  
15          ance with subsection (c)(6) for the provision of  
16          high speed data service.

17          “(G)     AUTHORITY TO REDUCE ELEMENTS  
18          SUBJECT TO REQUIREMENT.—This paragraph  
19          shall not prohibit the Commission from modi-  
20          fying the regulation referred to in subparagraph  
21          (B) to reduce the number of network elements  
22          subject to the unbundling requirement, or to  
23          forbear from enforcing any portion of that reg-  
24          ulation in accordance with the Commission’s  
25          authority under section 706 of the Tele-

1           communications Act of 1996, notwithstanding  
2           any limitation on that authority in section 10 of  
3           this Act.

4           “(H) PROHIBITION ON DISCRIMINATORY  
5           SUBSIDIES.—Any network element used in the  
6           provision of high speed data service that is not  
7           subject to the requirements of subsection (c)  
8           shall not be entitled to any subsidy, including  
9           any subsidy pursuant to section 254, that is not  
10          provided on a nondiscriminatory basis to all  
11          providers of high speed data service and Inter-  
12          net access service. This prohibition on discrimi-  
13          natory subsidies shall not be interpreted to au-  
14          thorize or require the extension of any subsidy  
15          to any provider of high speed data service or  
16          Internet access service.

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

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

3           “(A) the term ‘fiber feeder subloop’ means  
4 the entirely fiber optic cable portion of the local  
5 loop between the feeder/distribution interface  
6 (or its equivalent) and a distribution frame (or  
7 its equivalent) in an incumbent local exchange  
8 carrier central office, including all features,  
9 functions, and capabilities of such portion of  
10 the local loop;

11           “(B) the term ‘fiber local loop’ means an  
12 entirely fiber optic cable transmission facility,  
13 including all features, functions, and capabili-  
14 ties of such transmission facility, between a dis-  
15 tribution frame (or its equivalent) in an incum-  
16 bent local exchange carrier central office and  
17 the loop demarcation point at an end-user cus-  
18 tomer premise;

19           “(C) the term ‘packet switching network  
20 element’—

21           “(i) means a network element that  
22 performs, or offers the capability to  
23 perform—

24           “(I) the basic packet switching  
25 function of routing or forwarding

1 packets, frames, cells, or other data  
2 units based on address or other rout-  
3 ing information contained in the pack-  
4 ets, frames, cells, or other data units,  
5 including the functions that are per-  
6 formed by digital subscriber line ac-  
7 cess multiplexers; or

8 “(II) any successor to the func-  
9 tions described in clause (i);

10 “(ii) includes such element on a  
11 stand-alone basis, or as a part of a com-  
12 bination with one or more other network  
13 elements; and

14 “(iii) does not include elements of the  
15 signaling system 7 network transmitting  
16 signaling information between switching  
17 points;

18 “(D) the term ‘remote terminal’ means a  
19 controlled environment hut, controlled environ-  
20 ment vault, cabinet, or other structure at a re-  
21 mote location between the central office and a  
22 customer’s premises; and

23 “(E) the term ‘signaling system 7 network’  
24 means the network that uses signaling links to  
25 transmit routing messages between switches

1           and between switches and call related data  
2           bases.”.

3           (c) **PRESERVATION OF EXISTING INTERCONNECTION**  
4 **AGREEMENTS.**—Nothing in the amendments made by this  
5 section—

6           (1) shall be construed to permit or require the  
7           abrogation or modification of any interconnection  
8           agreement in effect on the date of enactment of this  
9           section during the term of such agreement, except  
10          that this paragraph shall not apply to any inter-  
11          connection agreement beyond the expiration date of  
12          the existing current term contained in such agree-  
13          ment on the date of enactment of this section, with-  
14          out regard to any extension or renewal of such  
15          agreement; or

16          (2) affects the implementation of any change of  
17          law provision in any such agreement.

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

19          Part I of title II of the Communications Act of 1934,  
20 as amended by section 4, is amended by adding at the  
21 end the following new section:

22 **“SEC. 233. INTERNET CONSUMERS FREEDOM OF CHOICE.**

23          “(a) **PURPOSE.**—It is the purpose of this section to  
24 ensure that Internet users have freedom of choice of Inter-  
25 net service provider.



1       “(b) OBLIGATIONS OF INCUMBENT LOCAL EX-  
2 CHANGE CARRIERS.—Each incumbent local exchange car-  
3 rier has the duty to provide—

4           “(1) Internet users with the ability to subscribe  
5 to and have access to any Internet service provider  
6 that interconnects with such carrier’s high speed  
7 data service;

8           “(2) any Internet service provider with the  
9 right to acquire the facilities and services necessary  
10 to interconnect with such carrier’s high speed data  
11 service for the provision of Internet access service;

12           “(3) any Internet service provider with the abil-  
13 ity to collocate equipment in accordance with the  
14 provisions of section 251, to the extent necessary to  
15 achieve the objectives of paragraphs (1) and (2) of  
16 this subsection; and

17           “(4) any provider of high speed data services,  
18 Internet backbone service, or Internet access service  
19 with special access for the provision of Internet ac-  
20 cess service within a period no longer than the pe-  
21 riod in which such incumbent local exchange carrier  
22 provides special access to itself or any affiliate for  
23 the provision of such service.

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

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

4           “(2) INCUMBENT LOCAL EXCHANGE CAR-  
5           RIER.—The term ‘incumbent local exchange carrier’  
6           has the same meaning as provided in section 251(h).

7           “(3) SPECIAL ACCESS SERVICE.—The term  
8           ‘special access service’ means the provision of dedi-  
9           cated transport links between a customer’s premises  
10          and the switch or point of presence of a high speed  
11          data service provider, Internet backbone service pro-  
12          vider, or Internet service provider.”.

13 **SEC. 6. INCIDENTAL INTERLATA PROVISION OF HIGH**  
14                   **SPEED DATA AND INTERNET BACKBONE**  
15                   **SERVICES.**

16          (a) INCIDENTAL INTERLATA SERVICE PER-  
17          MITTED.—Section 271(g) of the Communications Act of  
18          1934 (47 U.S.C. 271(g)) is amended—

19               (1) by striking “or” at the end of paragraph  
20               (5);

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

23               (3) by adding at the end thereof the following  
24               new paragraph:

1           “(7) of high speed data service or Internet  
2 backbone service.”.

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

6           “(k) PROHIBITION ON PROVISION OF VOICE TELE-  
7 PHONE SERVICES.—Until the date on which a Bell oper-  
8 ating company is authorized to offer interLATA services  
9 originating in an in-region State in accordance with the  
10 provisions of this section, such Bell operating company of-  
11 fering any high speed data service or Internet backbone  
12 service pursuant to the provisions of paragraph (7) of sub-  
13 section (g) may not, in such in-region State provide  
14 interLATA voice telecommunications service, regardless of  
15 whether there is a charge for such service, by means of  
16 the high speed data service or Internet backbone service  
17 provided by such company.”.

18           (c) NOTICE TO ATTORNEY GENERAL.—Section 271  
19 of such Act is further amended by adding at the end the  
20 following new subsection:

21           “(l) NOTICE TO ATTORNEY GENERAL.—

22           “(1) STATEMENT REQUIRED.—Not less than 30  
23 days before commencing to offer any interLATA  
24 high speed data service or Internet backbone service  
25 originating in an in-region State pursuant to para-

1 graph (7) of subsection (g), a Bell operating com-  
2 pany shall submit to the Attorney General a state-  
3 ment that—

4 “(A) expresses the intention to commence  
5 providing such service in such State;

6 “(B) provides a description of the service  
7 to be offered; and

8 “(C) identifies the geographic region with-  
9 in the State in which the service will be offered,  
10 if the service is not going to be offered State-  
11 wide.

12 “(2) ADDITIONAL CONTENTS PROHIBITED.—

13 The Attorney General may not require a statement  
14 under this subsection to contain any additional in-  
15 formation other than that specified in subparagraph  
16 (A), (B), and (C) of paragraph (1).

17 “(3) CONFIDENTIAL TREATMENT OF STATE-  
18 MENTS.—A statement submitted to the Attorney  
19 General under this subsection shall be exempt from  
20 disclosure under section 552 of title 5, United States  
21 Code, and no such statement may be made public,  
22 except as may be relevant to any administrative or  
23 judicial action or proceeding.”

24 (d) CONFORMING AMENDMENTS.—

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

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

6           (2) Section 272(a)(2)(C) of such Act is re-  
7 pealed.

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

9           Part III of title II of the Communications Act of  
10 1934 is amended by inserting after section 276 (47 U.S.C.  
11 276) the following new section:

12 **“SEC. 277. DEPLOYMENT OF BROADBAND SERVICES.**

13           “(a) DEPLOYMENT REQUIRED.—Each Bell operating  
14 company and its affiliates shall deploy high speed data  
15 services in each State in which such company or affiliate  
16 is an incumbent local exchange carrier (as such term is  
17 defined in section 251(h)) in accordance with the require-  
18 ments of this section.

19           “(b) DEPLOYMENT REQUIREMENTS.—

20                   “(1) MILEPOSTS FOR DEPLOYMENT.—A Bell  
21 operating company or its affiliate shall deploy high  
22 speed data services by attaining high speed data ca-  
23 pability in its central offices in each State to which  
24 subsection (a) applies. Such company or affiliate

1 shall attain such capability in accordance with the  
2 following schedule:

3 “(A) Within one year after the date of en-  
4 actment of this section, such company or affil-  
5 iate shall attain high speed data capability in  
6 not less than 20 percent of such central offices  
7 in such State.

8 “(B) Within 2 years after the date of en-  
9 actment of this section, such company or affil-  
10 iate shall attain high speed data capability in  
11 not less than 40 percent of such central offices  
12 in such State.

13 “(C) Within 3 years after the date of en-  
14 actment of this section, such company or affil-  
15 iate shall attain high speed data capability in  
16 not less than 70 percent of such central offices  
17 in such State.

18 “(D) Within 5 years after the date of en-  
19 actment of this section, such company or affil-  
20 iate shall attain high speed data capability in  
21 not less than 100 percent of such central offices  
22 in such State.

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

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

3           “(ii) each upgradeable customer loop that  
4 originates or terminates in such central office is  
5 upgraded promptly upon receipt of a customer  
6 request for such upgrading, as necessary to per-  
7 mit transmission of high speed data service (in-  
8 cluding any conditioning of the loop);

9           “(B) each customer served by such central  
10 office (without regard to the upgradeability or  
11 length of the customer’s loop) is able to obtain  
12 the provision of high speed data service from  
13 such Bell operating company or its affiliate by  
14 means of an alternative technology that does  
15 not involve the use of the customer’s loop; or

16           “(C) each such customer is able to obtain  
17 the provision of high speed data service by one  
18 or the other of the means described in subpara-  
19 graphs (A) and (B).

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

22           “(A) such loop is less than 15,000 feet in  
23 length (from the central office to the customer’s  
24 premises along the line); and

1           “(B) such loop can, with or without condi-  
2           tioning, transmit high speed data services with-  
3           out such transmission on such loop causing sig-  
4           nificant degradation of voice service.

5           “(c) AVAILABILITY OF REMEDIES.—

6           “(1) FORFEITURE PENALTIES.—A Bell oper-  
7           ating company or its affiliate that fails to comply  
8           with this section shall be subject to the penalties  
9           provided in section 503(b)(2). In determining wheth-  
10          er to impose a forfeiture penalty, and in determining  
11          the amount of any forfeiture penalty under section  
12          503(b)(2)(D), the Commission shall take into con-  
13          sideration the extent to which the requirements of  
14          this section are technically infeasible.

15          “(2) JURISDICTION.—The Commission shall  
16          have exclusive jurisdiction to enforce the require-  
17          ments of this section, except that any State commis-  
18          sion may file a complaint with the Commission seek-  
19          ing the imposition of penalties as provided in para-  
20          graph (1).

21          “(d) ANNUAL REPORT ON DEPLOYMENT.—

22          “(1) ANALYSIS REQUIRED.—The Commission  
23          shall include in each of its annual reports submitted  
24          no more than 18 months after the date of enactment  
25          of this section an analysis of the deployment of high



1 speed data service to underserved areas. Such report  
2 shall include—

3 “(A) a statistical analysis of the extent to  
4 which high speed data service has been de-  
5 ployed to central offices and customer loops, or  
6 is available using different technologies, as com-  
7 pared with the extent of such deployment and  
8 availability prior to such date and in prior re-  
9 ports under this subsection;

10 “(B) a breakdown of the delivery of high  
11 speed data service by type of technology and  
12 class or category of provider;

13 “(C) an identification of impediments to  
14 such deployment and availability, and develop-  
15 ments in overcoming such impediments during  
16 the intervening period between such reports;  
17 and

18 “(D) recommendations of the Commission,  
19 after consultation with the National Tele-  
20 communications and Information Administra-  
21 tion, for further extending such deployment and  
22 availability and overcoming such impediments.

23 “(2) DEFINITION OF UNDERSERVED AREA.—

24 For purposes of paragraph (1), the term ‘under-  
25 served areas’ means areas that—

1           “(A) are high cost areas that are eligible  
2           for services under subpart D of part 54 of the  
3           Commission’s regulations (47 C.F.R. 54.301 et  
4           seq.); or

5           “(B) are within or comprised of any census  
6           tract—

7                   “(i) the poverty level of which is at  
8                   least 30 percent (based on the most recent  
9                   census data); or

10                   “(ii) the median family income of  
11                   which does not exceed—

12                           “(I) in the case of a census tract  
13                           located in a metropolitan statistical  
14                           area, 70 percent of the greater of the  
15                           metropolitan area median family in-  
16                           come or the statewide median family  
17                           income; and

18                           “(II) in the case of a census tract  
19                           located in a nonmetropolitan statis-  
20                           tical area, 70 percent of the non-  
21                           metropolitan statewide median family  
22                           income.

23           “(3) DESIGNATION OF CENSUS TRACTS.—The  
24           Commission shall, not later than 90 days after the  
25           date of the enactment of this section, designate and

1 publish those census tracts meeting the criteria de-  
2 scribed in paragraph (2)(B).”.

3 **SEC. 8. COMMISSION AUTHORIZED TO PRESCRIBE JUST**  
4 **AND REASONABLE CHARGES.**

5 The Federal Communications Commission may im-  
6 pose penalties under section 503 of the Communications  
7 Act of 1934 not to exceed \$1,000,000 for any violation  
8 of provisions contained in, or amended by, section 5, 6,  
9 or 7 (or any combination thereof) of this Act. Each dis-  
10 tinct violation shall be a separate offense, and in the case  
11 of a continuing violation, each day shall be deemed a sepa-  
12 rate offense, except that the amount assessed for any con-  
13 tinuing violation shall not exceed a total of \$10,000,000  
14 for any single act or failure to act described in section  
15 5, 6, or 7 (or any combination thereof) of this Act.

16 **SEC. 9. CLARIFICATION OF CONTINUING OPERATION OF**  
17 **ANTITRUST LAWS.**

18 Section 601(b) of the Telecommunications Act of  
19 1996 (Public Law 104-104; 110 Stat. 143) is amended  
20 by adding at the end the following new paragraph:

21 “(4) CONTINUING OPERATION OF THE ANTI-  
22 TRUST LAWS.—Paragraph (1) shall be interpreted to  
23 mean that the antitrust laws are—

24 “(A) not repealed by,

25 “(B) not precluded by,

1                   “(C) not diminished by, and  
2                   “(D) not incompatible with,  
3           the Communications Act of 1934, this Act, or any  
4           law amended by either such Act.”.

5 **SEC. 10. COMMON CARRIER ENFORCEMENT.**

6           (a) CEASE AND DESIST AUTHORITY.—Section 501 of  
7 the Communications Act of 1934 (47 U.S.C. 501) is  
8 amended—

9                   (1) by striking “Any person” and inserting “(a)  
10           FINES AND IMPRISONMENT.—Any person”;

11                   (2) by adding at the end the following new sub-  
12           section:

13           “(b) CEASE AND DESIST ORDERS.— If, after a hear-  
14 ing, the Commission determines that any common carrier  
15 is engaged in an act, matter, or thing prohibited by this  
16 Act, or is failing to perform any act, matter, or thing re-  
17 quired by this Act, the Commission may order such com-  
18 mon carrier to cease or desist from such action or inac-  
19 tion.”.

20           (b) FORFEITURE PENALTIES.—Section 503(b) of the  
21 Communications Act of 1934 (47 U.S.C. 503(b)) is  
22 amended—

23                   (1) in paragraph (2)(B)—

24                           (A) by striking “exceed \$100,000” and in-  
25                           serting “exceed \$1,000,000”; and

1 (B) by striking “of \$1,000,000” and in-  
2 serting “of \$10,000,000”;

3 (2) in paragraph (2)(C), by striking “subpara-  
4 graph (A) or (B)” and inserting “subparagraph (A),  
5 (B), or (C)”;

6 (3) by redesignating subparagraphs (C) and  
7 (D) of paragraph (2) as subparagraphs (D) and (E),  
8 respectively;

9 (4) by inserting after subparagraph (B) of  
10 paragraph (2) the following new subparagraph:

11 “(C) If a common carrier has violated a cease and  
12 desist order or has previously been assessed a forfeiture  
13 penalty for a violation of a provision of this Act or of any  
14 rule, regulation, or order issued by the Commission, and  
15 if the Commission or an administrative law judge deter-  
16 mines that such common carrier has willfully violated the  
17 same provision, rule, regulation, that this repeated viola-  
18 tion has caused harm to competition, and that such com-  
19 mon carrier has been assessed a forfeiture penalty under  
20 this subsection for such previous violation, the Commis-  
21 sion may assess a forfeiture penalty not to exceed  
22 \$2,000,000 for each violation or each day of continuing  
23 violation; except that the amount of such forfeiture pen-  
24 alty shall not exceed \$20,000,000.”; and

1           (5) in paragraph (6)(B), by striking “1 year”  
2           and inserting “2 years”.

3           (c) EVALUATION OF IMPACT.—

4           (1) EVALUATION REQUIRED.—Within one year  
5           after the date of enactment of this Act, the Federal  
6           Communications Commission shall conduct an eval-  
7           uation of the impact of the increased remedies avail-  
8           able under the amendments made by this section on  
9           improving compliance with the requirements of the  
10          Communications Act of 1934, and with the rules,  
11          regulations, and orders of the Commission there-  
12          under. Such evaluation shall include—

13                   (A) an assessment of the number of en-  
14                   forcement proceedings commenced before and  
15                   after such date of enactment;

16                   (B) an analysis of any changes in the num-  
17                   ber, type, seriousness, or repetition of viola-  
18                   tions; and

19                   (C) an analysis of such other factors as the  
20                   Commission considers appropriate to evaluate  
21                   such impact.

22          (2) REPORT.—Within one year after such date  
23          of enactment, the Commission shall submit a report  
24          on the evaluation to the Committee on Energy and  
25          Commerce of the House of Representatives and the

1 Committee on Commerce, Science, and Transpor-  
2 tation of the Senate.

Passed the House of Representatives February 27,  
2002.

Attest:

JEFF TRANDAHL,

*Clerk.*