

## “(b) ANTITRUST LAWS.—

“(1) SAVINGS CLAUSE.—Except as provided in paragraphs (2) and (3), nothing in this Act [see Short Title of 1996 Amendment note set out under section 609 of this title] or the amendments made by this Act shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws.

“(2) REPEAL.—[Amended section 221 of this title.]

“(3) CLAYTON ACT.—[Amended section 18 of Title 15, Commerce and Trade.]

## “(c) FEDERAL, STATE, AND LOCAL LAW.—

“(1) NO IMPLIED EFFECT.—This Act and the amendments made by this Act shall not be construed to modify, impair, or supersede Federal, State, or local law unless expressly so provided in such Act or amendments.

“(2) STATE TAX SAVINGS PROVISION.—Notwithstanding paragraph (1), nothing in this Act or the amendments made by this Act shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or supersession of, any State or local law pertaining to taxation, except as provided in sections 622 and 653(c) of the Communications Act of 1934 [47 U.S.C. 542, 573(c)] and section 602 of this Act [set out as a note below].

“(d) COMMERCIAL MOBILE SERVICE JOINT MARKETING.—Notwithstanding section 22.903 of the Commission’s regulations (47 C.F.R. 22.903) or any other Commission regulation, a Bell operating company or any other company may, except as provided in sections 271(e)(1) and 272 of the Communications Act of 1934 [47 U.S.C. 271(e)(1), 272] as amended by this Act as they relate to wireline service, jointly market and sell commercial mobile services in conjunction with telephone exchange service, exchange access, intraLATA telecommunications service, interLATA telecommunications service, and information services.

## “(e) DEFINITIONS.—As used in this section:

“(1) AT&T CONSENT DECREE.—The term ‘AT&T Consent Decree’ means the order entered August 24, 1982, in the antitrust action styled *United States v. Western Electric*, Civil Action No. 82-0192, in the United States District Court for the District of Columbia, and includes any judgment or order with respect to such action entered on or after August 24, 1982.

“(2) GTE CONSENT DECREE.—The term ‘GTE Consent Decree’ means the order entered December 21, 1984, as restated January 11, 1985, in the action styled *United States v. GTE Corp.*, Civil Action No. 83-1298, in the United States District Court for the District of Columbia, and any judgment or order with respect to such action entered on or after December 21, 1984.

“(3) MCCAW CONSENT DECREE.—The term ‘McCaw Consent Decree’ means the proposed consent decree filed on July 15, 1994, in the antitrust action styled *United States v. AT&T Corp. and McCaw Cellular Communications, Inc.*, Civil Action No. 94-01555, in the United States District Court for the District of Columbia. Such term includes any stipulation that the parties will abide by the terms of such proposed consent decree until it is entered and any order entering such proposed consent decree.

“(4) ANTITRUST LAWS.—The term ‘antitrust laws’ has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes the Act of June 19, 1936 (49 Stat. 1526; 15 U.S.C. 13 et seq.), commonly known as the Robinson-Patman Act, and section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.”

## PREEMPTION OF LOCAL TAXATION WITH RESPECT TO DIRECT-TO-HOME SERVICES

Pub. L. 104-104, title VI, §602, Feb. 8, 1996, 110 Stat. 144, provided that:

“(a) PREEMPTION.—A provider of direct-to-home satellite service shall be exempt from the collection or remittance, or both, of any tax or fee imposed by any local taxing jurisdiction on direct-to-home satellite service.

## “(b) DEFINITIONS.—For the purposes of this section—

“(1) DIRECT-TO-HOME SATELLITE SERVICE.—The term ‘direct-to-home satellite service’ means only programming transmitted or broadcast by satellite directly to the subscribers’ premises without the use of ground receiving or distribution equipment, except at the subscribers’ premises or in the uplink process to the satellite.

“(2) PROVIDER OF DIRECT-TO-HOME SATELLITE SERVICE.—For purposes of this section, a ‘provider of direct-to-home satellite service’ means a person who transmits, broadcasts, sells, or distributes direct-to-home satellite service.

“(3) LOCAL TAXING JURISDICTION.—The term ‘local taxing jurisdiction’ means any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or any other local jurisdiction in the territorial jurisdiction of the United States with the authority to impose a tax or fee, but does not include a State.

“(4) STATE.—The term ‘State’ means any of the several States, the District of Columbia, or any territory or possession of the United States.

“(5) TAX OR FEE.—The terms ‘tax’ and ‘fee’ mean any local sales tax, local use tax, local intangible tax, local income tax, business license tax, utility tax, privilege tax, gross receipts tax, excise tax, franchise fees, local telecommunications tax, or any other tax, license, or fee that is imposed for the privilege of doing business, regulating, or raising revenue for a local taxing jurisdiction.

“(c) PRESERVATION OF STATE AUTHORITY.—This section shall not be construed to prevent taxation of a provider of direct-to-home satellite service by a State or to prevent a local taxing jurisdiction from receiving revenue derived from a tax or fee imposed and collected by a State.”

## § 153. Definitions

For the purposes of this chapter, unless the context otherwise requires—

## (1) Advanced communications services

The term “advanced communications services” means—

- (A) interconnected VoIP service;
- (B) non-interconnected VoIP service;
- (C) electronic messaging service; and
- (D) interoperable video conferencing service.

## (2) Affiliate

The term “affiliate” means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term “own” means to own an equity interest (or the equivalent thereof) of more than 10 percent.

## (3) Amateur station

The term “amateur station” means a radio station operated by a duly authorized person interested in radio technique solely with a personal aim and without pecuniary interest.

## (4) AT&amp;T Consent Decree

The term “AT&T Consent Decree” means the order entered August 24, 1982, in the antitrust action styled *United States v. Western Electric*, Civil Action No. 82-0192, in the United States District Court for the District of Columbia, and includes any judgment or order with respect to such action entered on or after August 24, 1982.

## (5) Bell operating company

The term “Bell operating company”—

(A) means any of the following companies: Bell Telephone Company of Nevada, Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, New England Telephone and Telegraph Company, New Jersey Bell Telephone Company, New York Telephone Company, U S West Communications Company, South Central Bell Telephone Company, Southern Bell Telephone and Telegraph Company, Southwestern Bell Telephone Company, The Bell Telephone Company of Pennsylvania, The Chesapeake and Potomac Telephone Company, The Chesapeake and Potomac Telephone Company of Maryland, The Chesapeake and Potomac Telephone Company of Virginia, The Chesapeake and Potomac Telephone Company of West Virginia, The Diamond State Telephone Company, The Ohio Bell Telephone Company, The Pacific Telephone and Telegraph Company, or Wisconsin Telephone Company; and

(B) includes any successor or assign of any such company that provides wireline telephone exchange service; but

(C) does not include an affiliate of any such company, other than an affiliate described in subparagraph (A) or (B).

**(6) Broadcast station**

The term “broadcast station”, “broadcasting station”, or “radio broadcast station” means a radio station equipped to engage in broadcasting as herein defined.

**(7) Broadcasting**

The term “broadcasting” means the dissemination of radio communications intended to be received by the public, directly or by the intermediary of relay stations.

**(8) Cable service**

The term “cable service” has the meaning given such term in section 522 of this title.

**(9) Cable system**

The term “cable system” has the meaning given such term in section 522 of this title.

**(10) Chain broadcasting**

The term “chain broadcasting” means simultaneous broadcasting of an identical program by two or more connected stations.

**(11) Common carrier**

The term “common carrier” or “carrier” means any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or interstate or foreign radio transmission of energy, except where reference is made to common carriers not subject to this chapter; but a person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier.

**(12) Connecting carrier**

The term “connecting carrier” means a carrier described in clauses (2), (3), or (4) of section 152(b) of this title.

**(13) Construction permit**

The term “construction permit” or “permit for construction” means that instrument of

authorization required by this chapter or the rules and regulations of the Commission made pursuant to this chapter for the construction of a station, or the installation of apparatus, for the transmission of energy, or communications, or signals by radio, by whatever name the instrument may be designated by the Commission.

**(14) Consumer generated media**

The term “consumer generated media” means content created and made available by consumers to online websites and services on the Internet, including video, audio, and multimedia content.

**(15) Corporation**

The term “corporation” includes any corporation, joint-stock company, or association.

**(16) Customer premises equipment**

The term “customer premises equipment” means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications.

**(17) Dialing parity**

The term “dialing parity” means that a person that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications services provider of the customer’s designation from among 2 or more telecommunications services providers (including such local exchange carrier).

**(18) Disability**

The term “disability” has the meaning given such term under section 12102 of title 42.

**(19) Electronic messaging service**

The term “electronic messaging service” means a service that provides real-time or near real-time non-voice messages in text form between individuals over communications networks.

**(20) Exchange access**

The term “exchange access” means the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services.

**(21) Foreign communication**

The term “foreign communication” or “foreign transmission” means communication or transmission from or to any place in the United States to or from a foreign country, or between a station in the United States and a mobile station located outside the United States.

**(22) Great Lakes Agreement**

The term “Great Lakes Agreement” means the Agreement for the Promotion of Safety on the Great Lakes by Means of Radio in force and the regulations referred to therein.

**(23) Harbor**

The term “harbor” or “port” means any place to which ships may resort for shelter or

to load or unload passengers or goods, or to obtain fuel, water, or supplies. This term shall apply to such places whether proclaimed public or not and whether natural or artificial.

**(24) Information service**

The term “information service” means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

**(25) Interconnected VoIP service**

The term “interconnected VoIP service” has the meaning given such term under section 9.3 of title 47, Code of Federal Regulations, as such section may be amended from time to time.

**(26) InterLATA service**

The term “interLATA service” means telecommunications between a point located in a local access and transport area and a point located outside such area.

**(27) Interoperable video conferencing service**

The term “interoperable video conferencing service” means a service that provides real-time video communications, including audio, to enable users to share information of the user’s choosing.

**(28) Interstate communication**

The term “interstate communication” or “interstate transmission” means communication or transmission (A) from any State, Territory, or possession of the United States (other than the Canal Zone), or the District of Columbia, to any other State, Territory, or possession of the United States (other than the Canal Zone), or the District of Columbia, (B) from or to the United States to or from the Canal Zone, insofar as such communication or transmission takes place within the United States, or (C) between points within the United States but through a foreign country; but shall not, with respect to the provisions of subchapter II of this chapter (other than section 223 of this title), include wire or radio communication between points in the same State, Territory, or possession of the United States, or the District of Columbia, through any place outside thereof, if such communication is regulated by a State commission.

**(29) Land station**

The term “land station” means a station, other than a mobile station, used for radio communication with mobile stations.

**(30) Licensee**

The term “licensee” means the holder of a radio station license granted or continued in force under authority of this chapter.

**(31) Local access and transport area**

The term “local access and transport area” or “LATA” means a contiguous geographic area—

(A) established before February 8, 1996, by a Bell operating company such that no exchange area includes points within more than 1 metropolitan statistical area, consolidated metropolitan statistical area, or State, except as expressly permitted under the AT&T Consent Decree; or

(B) established or modified by a Bell operating company after February 8, 1996, and approved by the Commission.

**(32) Local exchange carrier**

The term “local exchange carrier” means any person that is engaged in the provision of telephone exchange service or exchange access. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under section 332(c) of this title, except to the extent that the Commission finds that such service should be included in the definition of such term.

**(33) Mobile service**

The term “mobile service” means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes (A) both one-way and two-way radio communication services, (B) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (C) any service for which a license is required in a personal communications service established pursuant to the proceeding entitled “Amendment to the Commission’s Rules to Establish New Personal Communications Services” (GEN Docket No. 90-314; ET Docket No. 92-100), or any successor proceeding.

**(34) Mobile station**

The term “mobile station” means a radio-communication station capable of being moved and which ordinarily does move.

**(35) Network element**

The term “network element” means a facility or equipment used in the provision of a telecommunications service. Such term also includes features, functions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service.

**(36) Non-interconnected VoIP service**

The term “non-interconnected VoIP service”—

(A) means a service that—

(i) enables real-time voice communications that originate from or terminate to the user’s location using Internet protocol or any successor protocol; and

(ii) requires Internet protocol compatible customer premises equipment; and

(B) does not include any service that is an interconnected VoIP service.

**(37) Number portability**

The term “number portability” means the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.

**(38) Operator**

(A) The term “operator” on a ship of the United States means, for the purpose of parts II and III of subchapter III of this chapter, a person holding a radio operator’s license of the proper class as prescribed and issued by the Commission.

(B) “Operator” on a foreign ship means, for the purpose of part II of subchapter III of this chapter, a person holding a certificate as such of the proper class complying with the provisions of the radio regulations annexed to the International Telecommunication Convention in force, or complying with an agreement or treaty between the United States and the country in which the ship is registered.

**(39) Person**

The term “person” includes an individual, partnership, association, joint-stock company, trust, or corporation.

**(40) Radio communication**

The term “radio communication” or “communication by radio” means the transmission by radio of writing, signs, signals, pictures, and sounds of all kinds, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission.

**(41) Radio officer**

(A) The term “radio officer” on a ship of the United States means, for the purpose of part II of subchapter III of this chapter, a person holding at least a first or second class radiotelegraph operator’s license as prescribed and issued by the Commission. When such person is employed to operate a radiotelegraph station aboard a ship of the United States, he is also required to be licensed as a “radio officer” in accordance with chapter 71 of title 46.

(B) “Radio officer” on a foreign ship means, for the purpose of part II of subchapter III of this chapter, a person holding at least a first or second class radiotelegraph operator’s certificate complying with the provisions of the radio regulations annexed to the International Telecommunication Convention in force.

**(42) Radio station**

The term “radio station” or “station” means a station equipped to engage in radio communication or radio transmission of energy.

**(43) Radiotelegraph auto alarm**

The term “radiotelegraph auto alarm” on a ship of the United States subject to the provisions of part II of subchapter III of this chapter means an automatic alarm receiving apparatus which responds to the radiotelegraph alarm signal and has been approved by the

Commission. “Radiotelegraph auto alarm” on a foreign ship means an automatic alarm receiving apparatus which responds to the radiotelegraph alarm signal and has been approved by the government of the country in which the ship is registered: *Provided*, That the United States and the country in which the ship is registered are parties to the same treaty, convention, or agreement prescribing the requirements for such apparatus. Nothing in this chapter or in any other provision of law shall be construed to require the recognition of a radiotelegraph auto alarm as complying with part II of subchapter III of this chapter, on a foreign ship subject to part II of subchapter III of this chapter, where the country in which the ship is registered and the United States are not parties to the same treaty, convention, or agreement prescribing the requirements for such apparatus.

**(44) Rural telephone company**

The term “rural telephone company” means a local exchange carrier operating entity to the extent that such entity—

(A) provides common carrier service to any local exchange carrier study area that does not include either—

(i) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or

(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;

(B) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(C) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

(D) has less than 15 percent of its access lines in communities of more than 50,000 on February 8, 1996.

**(45) Safety convention**

The term “safety convention” means the International Convention for the Safety of Life at Sea in force and the regulations referred to therein.

**(46) Ship**

(A) The term “ship” or “vessel” includes every description of watercraft or other artificial contrivance, except aircraft, used or capable of being used as a means of transportation on water, whether or not it is actually afloat.

(B) A ship shall be considered a passenger ship if it carries or is licensed or certificated to carry more than twelve passengers.

(C) A cargo ship means any ship not a passenger ship.

(D) A passenger is any person carried on board a ship or vessel except (1) the officers and crew actually employed to man and operate the ship, (2) persons employed to carry on the business of the ship, and (3) persons on board a ship when they are carried, either because of the obligation laid upon the master to carry shipwrecked, distressed, or other persons in like or similar situations or by reason of

any circumstance over which neither the master, the owner, nor the charterer (if any) has control.

(E) “Nuclear ship” means a ship provided with a nuclear powerplant.

**(47) State**

The term “State” includes the District of Columbia and the Territories and possessions.

**(48) State commission**

The term “State commission” means the commission, board, or official (by whatever name designated) which under the laws of any State has regulatory jurisdiction with respect to intrastate operations of carriers.

**(49) Station license**

The term “station license”, “radio station license”, or “license” means that instrument of authorization required by this chapter or the rules and regulations of the Commission made pursuant to this chapter, for the use or operation of apparatus for transmission of energy, or communications, or signals by radio, by whatever name the instrument may be designated by the Commission.

**(50) Telecommunications**

The term “telecommunications” means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.

**(51) Telecommunications carrier**

The term “telecommunications carrier” means any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in section 226 of this title). A telecommunications carrier shall be treated as a common carrier under this chapter only to the extent that it is engaged in providing telecommunications services, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as common carriage.

**(52) Telecommunications equipment**

The term “telecommunications equipment” means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades).

**(53) Telecommunications service**

The term “telecommunications service” means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

**(54) Telephone exchange service**

The term “telephone exchange service” means (A) service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge, or (B) comparable service provided

through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service.

**(55) Telephone toll service**

The term “telephone toll service” means telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts with subscribers for exchange service.

**(56) Television service**

**(A) Analog television service**

The term “analog television service” means television service provided pursuant to the transmission standards prescribed by the Commission in section 73.682(a) of its regulations (47 C.F.R. 73.682(a)).

**(B) Digital television service**

The term “digital television service” means television service provided pursuant to the transmission standards prescribed by the Commission in section 73.682(d) of its regulations (47 C.F.R. 73.682(d)).

**(57) Transmission of energy by radio**

The term “transmission of energy by radio” or “radio transmission of energy” includes both such transmission and all instrumentalities, facilities, and services incidental to such transmission.

**(58) United States**

The term “United States” means the several States and Territories, the District of Columbia, and the possessions of the United States, but does not include the Canal Zone.

**(59) Wire communication**

The term “wire communication” or “communication by wire” means the transmission of writing, signs, signals, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission.

(June 19, 1934, ch. 652, title I, §3, 48 Stat. 1065; May 20, 1937, ch. 229, §2, 50 Stat. 189; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; July 16, 1952, ch. 879, §2, 66 Stat. 711; Apr. 27, 1954, ch. 175, §§2, 3, 68 Stat. 64; Aug. 13, 1954, ch. 729, §3, 68 Stat. 707; Aug. 13, 1954, ch. 735, §1, 68 Stat. 729; Aug. 6, 1956, ch. 973, §3, 70 Stat. 1049; Pub. L. 89-121, §1, Aug. 13, 1965, 79 Stat. 511; Pub. L. 90-299, §2, May 3, 1968, 82 Stat. 112; Pub. L. 97-259, title I, §120(b), Sept. 13, 1982, 96 Stat. 1097; Pub. L. 103-66, title VI, §6002(b)(2)(B)(ii), Aug. 10, 1993, 107 Stat. 396; Pub. L. 104-104, §3(a), (c), Feb. 8, 1996, 110 Stat. 58, 61; Pub. L. 105-33, title III, §3001(b), Aug. 5, 1997, 111 Stat. 258; Pub. L. 111-260, title I, §101, Oct. 8, 2010, 124 Stat. 2752.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

For definition of Canal Zone, referred to in pars. (28) and (58), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

Part II of subchapter III of this chapter, referred to in pars. (38), (41), and (43), is classified to section 351 et seq. of this title. Part III of subchapter III of this chapter, referred to in par. (38)(A), is classified to section 381 et seq. of this title.

#### CODIFICATION

In par. (41)(A), “chapter 71 of title 46” substituted for “the Act of May 12, 1948 (46 U.S.C. 229a-h)” on authority of Pub. L. 98-89, §2(b), Aug. 26, 1983, 97 Stat. 598, section 1 of which enacted Title 46, Shipping.

References to Philippine Islands in pars. (28) and (58) of this section omitted on authority of Proc. No. 2695, issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse, which proclamation recognized the independence of Philippine Islands as of July 4, 1946. Proc. No. 2695 is set out under section 1394 of Title 22.

#### AMENDMENTS

2010—Pub. L. 111-260 added pars. (53) to (59), reordered pars. in alphabetical order based on headings of pars., and renumbered pars. as so reordered, resulting in the renumbering of pars. (1) to (59) as pars. (2) to (13), (15) to (17), (20) to (24), (26), (28) to (35), (37) to (59), (1), (14), (18), (19), (25), (36), and (27), respectively.

1997—Pars. (49) to (52). Pub. L. 105-33 added par. (49) and redesignated former pars. (49) to (51) as (50) to (52), respectively.

1996—Pub. L. 104-104, §3(a)(2), (c)(4)-(8), redesignated subssecs. (a) to (ff) as pars. (1) to (32), respectively, realigned margins, inserted headings and words “The term”, changed capitalization, added pars. (33) to (51), reordered pars. in alphabetical order based on headings of pars., and renumbered pars. as so reordered.

Subsecs. (e), (n). Pub. L. 104-104, §3(c)(1), redesignated clauses (1) to (3) as (A) to (C), respectively.

Subsec. (r). Pub. L. 104-104, §3(a)(1), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (w). Pub. L. 104-104, §3(c)(2), redesignated pars. (1) to (5) as subpars. (A) to (E), respectively.

Subsecs. (y), (z). Pub. L. 104-104, §3(c)(3), redesignated pars. (1) and (2) as subpars. (A) and (B), respectively.

1993—Subsec. (n). Pub. L. 103-66, §6002(b)(2)(B)(ii)(I), inserted cl. (1) designation and added cls. (2) and (3).

Subsec. (gg). Pub. L. 103-66, §6002(b)(2)(B)(ii)(II), struck out subsec. (gg) which read as follows: “Private land mobile service” means a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation.”

1982—Subsec. (n). Pub. L. 97-259, §120(b)(2), substituted “a radio” for “the radio”, inserted “or receivers” after “between mobile stations”, and inserted provision that “mobile service” includes both one-way and two-way radio communication services.

Subsec. (gg). Pub. L. 97-259, §120(b)(1), added subsec. (gg).

1968—Subsec. (e). Pub. L. 90-299 inserted “(other than section 223 of this title)” after “subchapter II of this chapter”.

1965—Subsec. (w)(5). Pub. L. 89-121, §1(1), added par. (5).

Subsec. (x). Pub. L. 89-121, §1(2), among other changes, substituted “radiotelegraph auto alarm” for “auto-alarm” wherever appearing, “receiving apparatus which responds to the radiotelegraph alarm signal” for “receiver” in two places, and “country in which the ship is registered” for “country to which the ship belongs” and for “country of origin”.

Subsec. (y). Pub. L. 89-121, §1(3), struck out “qualified operator” from pars. (1) and (2), and substituted “country in which the ship is registered” for “country to which the ship belongs”.

Subsec. (z). Pub. L. 89-121, §1(4)(D), (E), added subsec. (z) and redesignated former subsec. (z) as (aa).

Subsec. (aa). Pub. L. 89-121, §1(4)(A), (D), redesignated former subsec. (z) as (aa) and former subsec. (aa) as (bb).

Subsecs. (bb) to (dd). Pub. L. 89-121, §1(4)(A), redesignated former subssecs. (aa) to (cc) as (bb) to (dd) and former subsec. (dd) as (ee).

Subsec. (ee). Pub. L. 89-121, §1(4)(A), (B), redesignated former subsec. (dd) as (ee), and repealed former subsec. (ee) which defined “existing installation”.

Subsecs. (ff), (gg). Pub. L. 89-121, §1(4)(B), (C), redesignated subsec. (gg) as (ff) and repealed former subsec. (ff) which defined “new installation”.

1956—Subsec. (y)(2). Act Aug. 6, 1956, substituted “parts II and III of subchapter III of this chapter” for “part II of subchapter III of this chapter”.

1954—Subsec. (e). Act Apr. 27, 1954, §2, obviated any possible construction that the Commission is empowered to assert common-carrier jurisdiction over point-to-point communication by radio between two points within a single State when the only possible claim that such an operation constitutes an interstate communication rests on the fact that the signal may traverse the territory of another State.

Subsec. (u). Act Apr. 27, 1954, §3, inserted reference to clauses (3) and (4) of section 152(b) of this title.

Subsecs. (ee), (ff). Act Aug. 13, 1954, ch. 729, added subssecs. (ee) and (ff).

Subsec. (gg), “Great Lakes Agreement”. Act Aug. 13, 1954, ch. 735, added another subsec. (ee) which for purposes of codification was designated subsec. (gg).

1952—Subsecs. (bb) to (dd). Act July 16, 1952, added subssecs. (bb) to (dd).

1937—Subsecs. (w) to (aa). Act May 20, 1937, added subssecs. (w) to (aa).

#### EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act Aug. 6, 1956, effective Mar. 1, 1957, see section 4 of act Aug. 6, 1956, set out as an Effective Date note under section 381 of this title.

#### EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 13, 1954, ch. 735, effective Nov. 13, 1954, see section 6 of act Aug. 13, 1954, set out as an Effective Date note under section 507 of this title.

#### EFFECTIVE DATE OF 1952 AMENDMENT

Section 19 of act July 16, 1952, provided that: “This Act [enacting section 1343 of Title 18, Crimes and Criminal Procedure, amending this section and sections 154, 155, 307 to 312, 315, 316, 319, 402, 405, 409, and 410 of this title, and enacting provisions set out as notes under this section and section 609 of this title] shall take effect on the date of its enactment [July 16, 1952], but—

“(1) Insofar as the amendments made by this Act to the Communications Act of 1934 [this chapter] provide for procedural changes, requirements imposed by such changes shall not be mandatory as to any agency proceeding (as defined in the Administrative Procedure Act) [see sections 551 et seq. and 701 et seq. of Title 5, Government Organization and Employees] with respect to which hearings have been commenced prior to the date of enactment of this Act [July 16, 1952].

“(2) The amendments made by this Act to section 402 of the Communications Act of 1934 [section 402 of this title] (relating to judicial review of orders and decisions of the Commission) shall not apply with respect to any action or appeal which is pending before any court on the date of enactment of this Act [July 16, 1952].”

#### LIMITATION ON LIABILITY

Pub. L. 111-260, §2, Oct. 8, 2010, 124 Stat. 2751, provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), no person shall be liable for a violation of the re-

quirements of this Act [see Short Title of 2010 Amendment note set out under section 609 of this title] (or of the provisions of the Communications Act of 1934 [47 U.S.C. 151 et seq.] that are amended or added by this Act) with respect to video programming, online content, applications, services, advanced communications services, or equipment used to provide or access advanced communications services to the extent such person—

“(1) transmits, routes, or stores in intermediate or transient storage the communications made available through the provision of advanced communications services by a third party; or

“(2) provides an information location tool, such as a directory, index, reference, pointer, menu, guide, user interface, or hypertext link, through which an end user obtains access to such video programming, online content, applications, services, advanced communications services, or equipment used to provide or access advanced communications services.

“(b) EXCEPTION.—The limitation on liability under subsection (a) shall not apply to any person who relies on third party applications, services, software, hardware, or equipment to comply with the requirements of this Act (or of the provisions of the Communications Act of 1934 that are amended or added by this Act) with respect to video programming, online content, applications, services, advanced communications services, or equipment used to provide or access advanced communications services.”

#### PROPRIETARY TECHNOLOGY

Pub. L. 111-260, §3, Oct. 8, 2010, 124 Stat. 2752, provided that: “No action taken by the Federal Communications Commission to implement this Act [see Short Title of 2010 Amendment note set out under section 609 of this title] or any amendment made by this Act shall mandate the use or incorporation of proprietary technology.”

#### GREAT LAKES AGREEMENT

The Great Lakes Agreement, referred to in this section, relates to the bilateral Agreement for the Promotion of Safety on the Great Lakes by Means of Radio, signed at Ottawa, Canada, Feb. 21, 1952; entered into force Nov. 13, 1954, 3 UST 4926. A subsequent agreement for Promotion of Safety on the Great Lakes by Means of Radio, 1973, was signed at Ottawa, Canada, Feb. 26, 1973, and entered into force May 16, 1975, 25 UST 935.

#### SAFETY CONVENTION

The United States was a party to the International Convention for the Safety of Life at Sea, signed at London May 31, 1929, entered into force as to the United States, Nov. 7, 1936, 50 Stat. 1121, 1306. For subsequent International Conventions for the Safety of Life at Sea to which the United States has been a party, see section 1602 of Title 33, Navigation and Navigable Waters, and notes thereunder.

#### DEFINITIONS

Pub. L. 111-260, title II, §206, Oct. 8, 2010, 124 Stat. 2776, provided that: “In this title [amending sections 303, 330, and 613 of this title and enacting provisions set out as notes under sections 303 and 613 of this title]:

“(1) ADVISORY COMMITTEE.—The term ‘Advisory Committee’ means the advisory committee established in section 201 [47 U.S.C. 613 note].

“(2) CHAIRMAN.—The term ‘Chairman’ means the Chairman of the Federal Communications Commission.

“(3) COMMISSION.—The term ‘Commission’ means the Federal Communications Commission.

“(4) EMERGENCY INFORMATION.—The term ‘emergency information’ has the meaning given such term in section 79.2 of title 47, Code of Federal Regulations.

“(5) INTERNET PROTOCOL.—The term ‘Internet protocol’ includes Transmission Control Protocol and a

successor protocol or technology to Internet protocol.

“(6) NAVIGATION DEVICE.—The term ‘navigation device’ has the meaning given such term in section 76.1200 of title 47, Code of Federal Regulations.

“(7) VIDEO DESCRIPTION.—The term ‘video description’ has the meaning given such term in section 713 of the Communications Act of 1934 (47 U.S.C. 613).

“(8) VIDEO PROGRAMMING.—The term ‘video programming’ has the meaning given such term in section 713 of the Communications Act of 1934 (47 U.S.C. 613).”

Pub. L. 105-33, title III, §3001(a), Aug. 5, 1997, 111 Stat. 258, provided that: “Except as otherwise provided in this title [enacting section 337 of this title, amending this section and sections 303, 309, and 923 to 925 of this title, enacting provisions set out as notes under sections 254, 309, and 925 of this title, and repealing provisions set out as a note under section 309 of this title], the terms used in this title have the meanings provided in section 3 of the Communications Act of 1934 (47 U.S.C. 153), as amended by this section.”

Pub. L. 104-104, §3(b), Feb. 8, 1996, 110 Stat. 61, provided that: “Except as otherwise provided in this Act [see Short Title of 1996 Amendment note set out under section 609 of this title], the terms used in this Act have the meanings provided in section 3 of the Communications Act of 1934 (47 U.S.C. 153), as amended by this section.”

### § 154. Federal Communications Commission

#### (a) Number of commissioners; appointment

The Federal Communications Commission (in this chapter referred to as the “Commission”) shall be composed of five commissioners appointed by the President, by and with the advice and consent of the Senate, one of whom the President shall designate as chairman.

#### (b) Qualifications

(1) Each member of the Commission shall be a citizen of the United States.

(2)(A) No member of the Commission or person employed by the Commission shall—

(i) be financially interested in any company or other entity engaged in the manufacture or sale of telecommunications equipment which is subject to regulation by the Commission;

(ii) be financially interested in any company or other entity engaged in the business of communication by wire or radio or in the use of the electromagnetic spectrum;

(iii) be financially interested in any company or other entity which controls any company or other entity specified in clause (i) or clause (ii), or which derives a significant portion of its total income from ownership of stocks, bonds, or other securities of any such company or other entity; or

(iv) be employed by, hold any official relation to, or own any stocks, bonds, or other securities of, any person significantly regulated by the Commission under this chapter;

except that the prohibitions established in this subparagraph shall apply only to financial interests in any company or other entity which has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission.

(B)(i) The Commission shall have authority to waive, from time to time, the application of the prohibitions established in subparagraph (A) to persons employed by the Commission if the