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101ST CONGRESS
1ST SESSION

S. 1981

To permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 21 (legislative day, NOVEMBER 6), 1989

Mr. HOLLINGS introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telecommunications Equipment Research and Manufacturing Competition Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that the continued economic growth and the international competitiveness of American industry would be assisted by permitting the Bell Telephone Compa-

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nies to conduct research on, design, develop, manufacture, and market telecommunications equipment for American residential and business telecommunications users.

SEC. 3. AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934.

(a) IN GENERAL.—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

"REGULATION OF MANUFACTURING BY BELL TELEPHONE COMPANIES

"SEC. 225. (a) Subject to the requirements of this section and the regulations prescribed thereunder, a Bell Telephone Company may conduct research on and manufacture and provide telecommunications equipment, notwithstanding any restriction or obligation imposed before the date of enactment of this section pursuant to the antitrust laws on the lines of business in which a Bell Telephone Company may engage, except that a Bell Telephone Company may not engage in such manufacturing or provision or both through a joint manufacturing agreement with another Bell Telephone Company.

"(b) Any Bell Telephone Company engaged in any activity authorized under subsection (a) shall conduct such activity other than basic research only through a subsidiary that is fully separate from any other entity owned or otherwise affiliated with any Bell Telephone Company, including any affiliate of one or more of the Bell Telephone Companies that

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provides telecommunications services over the telephone network. The Commission shall issue rules to ensure that such subsidiary shall—

"(1) maintain books, records, and accounts separate from the parent Bell Telephone Company which identify all transactions with such parent Company and, even if such subsidiary is not a publicly held corporation, prepare financial statements which are in compliance with Federal financial reporting requirements for publicly held corporations, file such statements with the Commission, and make such statements available for public inspection;

"(2) consistent with the provisions of this section, carry out directly its own marketing, sales, advertising, installation, production, maintenance operations, manufacturing, and research and development relating to the equipment it provides, except that institutional advertising of a type not related to specific telecommunications equipment carried out by the parent Bell Telephone Company shall be permitted if each party pays its pro rata share;

"(3) conduct all of its manufacturing activity, including design and development as well as fabrication, and including the manufacture of components, within the United States;

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"(4) have no more than 90 per centum of its equity owned by its parent Bell Telephone Company;

"(5) acquire all of the debt necessary to finance itself from the financial markets outside the operations of its parent Bell Telephone Company, and be prohibited from acquiring debt in a manner that would permit a creditor, on default, to have recourse to the assets of the Bell Telephone Company's telecommunications services business; and

"(6) shall operate at all times on an arms-length basis from any of its parent Bell Telephone Company's other businesses, including the Bell Telephone Company's telecommunications services businesses.

"(c) The Commission shall issue regulations requiring that any Bell Telephone Company that engages in any activity authorized by subsection (a) shall—

"(1) provide to other telecommunications equipment manufacturers opportunities to sell such equipment to itself or any of its affiliates which are comparable to the opportunities which it provides to itself or any of its affiliates; and

"(2) not subsidize its fully separated subsidiary with revenues from its regulated telecommunications services.

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"(d) For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to any Bell Telephone Company as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier subject to this Act.

"(e) The authority of the Commission to prescribe regulations to carry out this section is effective on the date of enactment of this section. The Commission shall prescribe such regulations within one hundred and eighty days after such date of enactment.

"(f) As used in this section:

"(1) The term 'affiliate' means any entity (A) that is under direct or indirect common ownership by a Bell Telephone Company, or directly or indirectly owns a Bell Telephone Company, (B) that is under direct or indirect control by a Bell Telephone Company, or directly or indirectly controls a Bell Telephone Company, or (C) in which a Bell Telephone Company or its other affiliates directly or indirectly (i) have an equity interest (or the equivalent thereof) of more than 10 per centum or (ii) exercise substantial management influence.

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"(2) The term 'antitrust laws' has the meaning given such term by subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

"(3) The term 'Bell Telephone Company' means those companies listed in appendix A of the Modification of Final Judgment entered August 24, 1982, in United States v. Western Electric, Civil Action No. 82–0192 (United States District Court, District of Columbia), and includes any successor or assign of any such company, but does not include any affiliate of any such company.

"(4) The term 'manufacturing' has the same meaning as such term has in the Modification of Final Judgment entered August 24, 1982, in United States v. Western Electric, Civil Action No. 82–0192 (United States District Court, District of Columbia) as interpreted in United States v. Western Electric, Civil Action No. 82–0192 (United States District Court, District of Columbia) (filed December 3, 1987).

"(5) The term 'telecommunications' means the transmission, between or among points specified by the customer, or information of the customer's choosing, without change in the form of content of the information as sent and received, by means of an electromagnetic transmission medium, including all instrumental-

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ities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission.

"(6) The term 'telecommunications equipment' means equipment, including customer premises equipment, telecommunications products used by a carrier to provide telecommunications services, and software necessary to operate such equipment.

"(7) The term 'telecommunications service' means the offering for hire of telecommunications facilities, or of telecommunications by means of such facilities.".

(b) CONFORMING AMENDMENT.—Section 2(b) of the Communications Act of 1934 is amended by striking "section 224" by inserting "sections 224 and 225".

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