102D CONGRESS
2D SESSION

H. R. 6191

To protect the public interest and the future development of pay-per-call technology by providing for the regulation and oversight of the applications and growth of the pay-per-call industry, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 6 (legislative day, OCTOBER 5), 1992

Mr. SWIFT (for himself and Mr. MARKEY) introduced the following bill; which was referred to the Committee on Energy and Commerce

OCTOBER 6 (legislative day, OCTOBER 5), 1992

Committee on Energy and Commerce discharged; considered and passed

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A BILL

To protect the public interest and the future development of pay-per-call technology by providing for the regulation and oversight of the applications and growth of the pay-per-call industry, 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, FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 "Telephone Disclosure and Dispute Resolution Act".

6 (b) FINDINGS.—The Congress finds the following:

1 (1) The use of pay-per-call services, most com-
2 monly through the use of 900 telephone numbers,
3 has grown exponentially in the past few years into
4 a national, billion-dollar industry as a result of re-
5 cent technological innovations. Such services are
6 convenient to consumers, cost-effective to vendors,
7 and profitable to communications common carriers.
8 (2) Many pay-per-call businesses provide valu-
9 able information, increase consumer choices, and
10 stimulate innovative and responsive services that
11 benefit the public.
12 (3) The interstate nature of the pay-per-call in-
13 dustry means that its activities are beyond the reach
14 of individual States and therefore requires Federal
15 regulatory treatment to protect the public interest.
16 (4) The lack of nationally uniform regulatory
17 guidelines has led to confusion for callers, subscrib-
18 ers, industry participants, and regulatory agencies
19 as to the rights of callers and the oversight respon-
20 sibilities of regulatory authorities, and has allowed
21 some pay-per-call businesses to engage in practices
22 that abuse the rights of consumers.
23 (5) Some interstate pay-per-call businesses have
24 engaged in practices which are misleading to the
25 consumer, harmful to the public interest, or contrary

1 to accepted standards of business practices and thus
2 cause harm to the many reputable businesses that
3 are serving the public.

4 (6) Because the consumer most often incurs a
5 financial obligation as soon as a pay-per-call trans-
6 action is completed, the accuracy and descriptiveness
7 of vendor advertisements become crucial in avoiding
8 consumer abuse. The obligation for accuracy should
9 include price-per-call and duration-of-call informa-
10 tion, odds disclosure for lotteries, games, and sweep-
11 stakes, and obligations for obtaining parental con-
12 sent from callers under 18.

13 (7) The continued growth of the legitimate pay-
14 per-call industry is dependent upon consumer con-
15 fidence that unfair and deceptive behavior will be ef-
16 fectively curtailed and that consumers will have ade-
17 quate rights of redress.

18 (8) Vendors of telephone-billed goods and serv-
19 ices must also feel confident in their rights and obli-
20 gations for resolving billing disputes if they are to
21 use this new marketplace for the sale of products of
22 more than nominal value.

TITLE I—CARRIER OBLIGATIONS AND CONSUMER RIGHTS CONCERNING PAY-PER-CALL TRANSACTIONS

SEC. 101. AMENDMENT TO COMMUNICATIONS ACT OF 1934.

Title II of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"SEC. 228. REGULATION OF CARRIER OFFERING OF PAY-PER-CALL SERVICES.

"(a) PURPOSE.—It is the purpose of this section—

"(1) to put into effect a system of national regulation and review that will oversee interstate pay-per-call services;

"(2) to recognize the Commission's authority to prescribe regulations and enforcement procedures and conduct oversight to afford reasonable protection to consumers of pay-per-call services and to assure that violations of Federal law do not occur.

"(b) GENERAL AUTHORITY FOR REGULATIONS.—The Commission by regulation shall, within 270 days after the date of enactment of this section, establish a system for oversight and regulation of pay-per-call services in order to provide for the protection of consumers in accord-

1 ance with this Act and other applicable Federal statutes
2 and regulations. The Commission's final rules shall—
3 "(1) include measures that provide a consumer
4 of pay-per-call services with adequate and clear de-
5 scriptions of the rights of the caller;
6 "(2) define the obligations of common carriers
7 with respect to the provision of pay-per-call services;
8 "(3) include requirements on such carriers to
9 protect against abusive practices by providers of
10 pay-per-call services;
11 "(4) identify procedures by which common car-
12 riers and providers of pay-per-call services may take
13 affirmative steps to protect against nonpayment of
14 legitimate charges; and
15 "(5) require that any service described in sub-
16 paragraphs (A) and (B) of subsection (i)(1) be of-
17 fered only through the use of certain telephone num-
18 ber prefixes and area codes.
19 "(c) COMMON CARRIER OBLIGATIONS.—Within 270
20 days after the date of enactment of this section, the Com-
21 mission shall, by regulation, establish the following re-
22 quirements for common carriers:
23 "(1) CONTRACTUAL OBLIGATIONS TO COM-
24 PLY.—Any common carrier assigning to a provider
25 of pay-per-call services a telephone number with a

1 prefix or area code designated by the Commission in
2 accordance with subsection (b)(5) shall require by
3 contract or tariff that such provider comply with the
4 provisions of titles II and III of the Telephone Dis-
5 closure and Dispute Resolution Act and the regula-
6 tions prescribed by the Federal Trade Commission
7 pursuant to those titles.

8 "(2) INFORMATION AVAILABILITY.—A common
9 carrier that by tariff or contract assigns a telephone
10 number with a prefix or area code designated by the
11 Commission in accordance with subsection (b)(5) to
12 a provider of a pay-per-call service shall make read-
13 ily available on request to Federal and State agen-
14 cies and other interested persons—

15 "(A) a list of the telephone numbers for
16 each of the pay-per-call services it carries;

17 "(B) a short description of each such serv-
18 ice;

19 "(C) a statement of the total cost or the
20 cost per minute and any other fees for each
21 such service;

22 "(D) a statement of the pay-per-call serv-
23 ice's name, business address, and business tele-
24 phone; and

1 "(E) such other information as the Com-
2 mission considers necessary for the enforcement
3 of this section and other applicable Federal
4 statutes and regulations.

5 "(2) COMPLIANCE PROCEDURES.—A common
6 carrier that by contract or tariff assigns a telephone
7 number with a prefix or area code designated by the
8 Commission in accordance with subsection (b)(5) to
9 a provider of pay-per-call services shall terminate, in
10 accordance with procedures specified in such regula-
11 tions, the offering of a pay-per-call service of a pro-
12 vider if the carrier knows or reasonably should know
13 that such service is not provided in compliance with
14 title II or III of the Telephone Disclosure and Dis-
15 pute Resolution Act or the regulations prescribed by
16 the Federal Trade Commission pursuant to such
17 titles.

18 "(3) SUBSCRIBER DISCONNECTION PROHIB-
19 ITED.—A common carrier shall not disconnect or in-
20 terrupt a subscriber's local exchange telephone serv-
21 ice or long distance telephone service because of
22 nonpayment of charges for any pay-per-call service.

23 "(4) BLOCKING AND PRESUBSCRIPTION.—A
24 common carrier that provides local exchange service
25 shall—

"(A) offer telephone subscribers (where technically feasible) the option of blocking access from their telephone number to all, or to certain specific, prefixes or area codes used by pay-per-call services, which option—

"(i) shall be offered at no charge (I) to all subscribers for a period of 60 days after the issuance of the regulations under subsection (b), and (II) to any subscriber who subscribes to a new telephone number until 60 days after the time the new telephone number is effective; and

"(ii) shall otherwise be offered at a reasonable fee; and

"(B) offer telephone subscribers (where the Commission determines it is technically and economically feasible), in combination with the blocking option described under subparagraph (A), the option of presubscribing to or blocking only specific pay-per-call services for a reasonable one-time charge.

The regulations prescribed under subparagraph (A)(i) of this paragraph may permit the costs of such blocking to be recovered by contract or tariff, but such costs may not be recovered from local or

1 long-distance ratepayers. Nothing in this subsection
2 precludes a common carrier from filing its rates and
3 regulations regarding blocking and presubscription
4 in its interstate tariffs.

5 "(5) VERIFICATION OF CHARITABLE STATUS.—
6 A common carrier that assigns by contract or tariff
7 a telephone number with a prefix or area code des-
8 ignated by the Commission in accordance with sub-
9 section (b)(5) to a provider of pay-per-call services
10 that the carrier knows or reasonably should know is
11 engaged in soliciting charitable contributions shall
12 obtain from such provider proof of the tax exempt
13 status of any person or organization for which con-
14 tributions are solicited.

15 "(6) BILLING FOR 800 CALLS.—A common car-
16 rier shall prohibit by tariff or contract the use of
17 any 800 telephone number, or other telephone num-
18 ber advertised or widely understood to be toll free,
19 in a manner that would result in—

20 "(A) the calling party being assessed, by
21 virtue of completing the call, a charge for the
22 call;

23 "(B) the calling party being connected to
24 a pay-per-call service;

1 "(C) the calling party being charged for in-
2 formation conveyed during the call unless the
3 calling party has a preexisting agreement to be
4 charged for the information or discloses a credit
5 or charge card number during the call; or
6 "(D) the calling party being called back
7 collect for the provision of audio information
8 services or simultaneous voice conservation
9 services.
10 "(d) BILLING AND COLLECTION PRACTICES.—The
11 regulations required by this section shall require that any
12 common carrier that by tariff or contract assigns a tele-
13 phone number with a prefix or area code designated by
14 the Commission in accordance with subsection (b)(5) to
15 a provider of a pay-per-call service and that offers billing
16 and collection services to such provider—
17 "(1) ensure that a subscriber is not billed—
18 "(A) for pay-per-call services that such
19 carrier knows or reasonably should know was
20 provided in violation of the regulations issued
21 pursuant to title II of the Telephone Disclosure
22 and Dispute Resolution Act; or
23 "(B) under such other circumstances as
24 the Commission determines necessary in order
25 to protect subscribers from abusive practices;

1 "(2) establish a local or a toll-free telephone
2 number to answer questions and provide information
3 on subscribers' rights and obligations with regard to
4 their use of pay-per-call services and to provide to
5 callers the name and mailing address of any provider
6 of pay-per-call services offered by the common
7 carrier;
8 "(3) within 60 days after the issuance of final
9 regulations pursuant to subsection (b), provide, ei-
10 ther directly or through contract with any local ex-
11 change carrier that provides billing or collection
12 services to the common carrier, to all of such com-
13 mon carrier's telephone subscribers, to all new sub-
14 scribers, and to all subscribers requesting service at
15 a new location, a disclosure statement that sets forth
16 all rights and obligations of the subscriber and the
17 carrier with respect to the use and payment for pay-
18 per-call services, including the right of a subscriber
19 not to be billed and the applicable blocking option;
20 and
21 "(4) in any billing to telephone subscribers that
22 includes charges for any pay-per-call service—
23 "(A) display any charges for pay-per-call
24 services in a part of the subscriber's bill that is

1 identified as not being related to local and long
2 distance telephone charges;
3 "(B) for each charge so displayed, specify,
4 at a minimum, the type of service, the amount
5 of the charge, and the date, time, and duration
6 of the call; and
7 "(C) identify the toll-free number estab-
8 lished pursuant to paragraph (2).
9 "(e) LIABILITY.—
10 "(1) COMMON CARRIERS NOT LIABLE FOR
11 TRANSMISSION OR BILLING.—No common carrier
12 shall be liable for a criminal or civil sanction or pen-
13 alty solely because the carrier provided transmission
14 or billing and collection for a pay-per-call service un-
15 less the carrier knew or reasonably should have
16 known that such service was provided in violation of
17 a provision of, or regulation prescribed pursuant to,
18 title II or III of the Telephone Disclosure and Dis-
19 pute Resolution Act or any other Federal law. This
20 paragraph shall not prevent the Commission from
21 imposing a sanction or penalty on a common carrier
22 for a violation by that carrier of a regulation pre-
23 scribed under this section.
24 "(2) CIVIL LIABILITY.—No cause of action may
25 be brought in any court or administrative agency

1 against any common carrier or any of its affiliates
2 on account of any act of the carrier or affiliate to
3 terminate any pay-per-call service in order to comply
4 with the regulations prescribed under this section,
5 title II or III of the Telephone Disclosure and Dis-
6 pute Resolution Act, or any other Federal law unless
7 the complainant demonstrates that the carrier or af-
8 filiate did not act in good faith.
9 "(f) SPECIAL PROVISIONS.—
10 "(1) CONSUMER REFUND REQUIREMENTS.—
11 The regulations required by subsection (d) shall es-
12 tablish procedures, consistent with the provisions of
13 titles II and III of the Telephone Disclosure and
14 Dispute Resolution Act, to ensure that carriers and
15 other parties providing billing and collection services
16 with respect to pay-per-call services provide appro-
17 priate refunds to subscribers who have been billed
18 for pay-per-call services pursuant to programs that
19 have been found to have violated this section or such
20 regulations, any provision of, or regulations pre-
21 scribed pursuant to, title II or III of the Telephone
22 Disclosure and Dispute Resolution Act, or any other
23 Federal law.
24 "(2) RECOVERY OF COSTS.—The regulations
25 prescribed by the Commission under this section

1 shall permit a common carrier to recover its cost of
2 complying with such regulations from providers of
3 pay-per-call services, but shall not permit such costs
4 to be recovered from local or long distance rate-
5 payers.

6 "(3) RECOMMENDATIONS ON DATA PAY-PER-
7 CALL.—The Commission, within one year after the
8 date of enactment of this section, shall submit to the
9 Congress the Commission's recommendations with
10 respect to the extension of regulations under this
11 section to persons that provide, for a per-call charge,
12 data services that are not pay-per-call services.

13 "(g) EFFECT ON OTHER LAW.—

14 "(1) NO PREEMPTION OF ELECTION LAW.—
15 Nothing in this section shall relieve any provider of
16 pay-per-call services, common carrier, local exchange
17 carrier, or any other person from the obligation to
18 comply with Federal, State, and local election stat-
19 utes and regulations.

20 "(2) CONSUMER PROTECTION LAWS.—Nothing
21 in this section shall relieve any provider of pay-per-
22 call services, common carrier, local exchange carrier,
23 or any other person from the obligation to comply
24 with any Federal, State, or local statute or regula-
25 tion relating to consumer protection or unfair trade.

1 "(3) GAMBLING LAWS.—Nothing in this section
2 shall preclude any State from enforcing its statutes
3 and regulations with regard to lotteries, wagering,
4 betting, and other gambling activities.
5 "(4) STATE AUTHORITY.—Nothing in this sec-
6 tion shall preclude any State from enacting and en-
7 forcing additional and complementary oversight and
8 regulatory systems or procedures, or both, so long as
9 such systems and procedures govern intrastate serv-
10 ices and do not significantly impede the enforcement
11 of this section or other Federal statutes.
12 "(5) ENFORCEMENT OF EXISTING REGULA-
13 TIONS.—Nothing in this section shall be construed
14 to prohibit the Commission from enforcing regula-
15 tions prescribed prior to the date of enactment of
16 this section in fulfilling the requirements of this sec-
17 tion to the extent that such regulations are consist-
18 ent with the provisions of this section.
19 "(h) EFFECT ON DIAL-A-PORN PROHIBITIONS.—
20 Nothing in this section shall affect the provisions of sec-
21 tion 223 of this Act.
22 "(i) DEFINITION OF PAY-PER-CALL SERVICES.—For
23 purposes of this section—
24 "(1) The term 'pay-per-call services' means any
25 service—

1 "(A) in which any person provides or
2 purports to provide—
3 "(i) audio information or audio enter-
4 tainment produced or packaged by such
5 person;
6 "(ii) access to simultaneous voice con-
7 versation services; or
8 "(iii) any service, including the provi-
9 sion of a product, the charges for which
10 are assessed on the basis of the completion
11 of the call;
12 "(B) for which the caller pays a per-call or
13 per-time-interval charge that is greater than, or
14 in addition to, the charge for transmission of
15 the call; and
16 "(C) which is accessed through use of a
17 900 telephone number or other prefix or area
18 code designated by the Commission in accord-
19 ance with subsection (b)(5).
20 "(2) Such term does not include directory serv-
21 ices provided by a common carrier or its affiliate or
22 by a local exchange carrier or its affiliate, or any
23 service the charge for which is tariffed, or any serv-
24 ice for which users are assessed charges only after

1 entering into a presubscription or comparable ar-
2 rangement with the provider of such service.".

3 **SEC. 102. TECHNICAL AMENDMENT.**

4 Section 3(c) of the Telephone Consumer Protection
5 Act of 1991 is amended by striking "section 228" and
6 inserting "section 227".

7 TITLE II—REGULATION OF UN-
8 FAIR AND DECEPTIVE ACTS
9 AND PRACTICES IN CONNEC-
10 TION WITH PAY-PER-CALL
11 SERVICES

12 **SEC. 201. FEDERAL TRADE COMMISSION REGULATIONS.**

13 (a) IN GENERAL.—

14 (1) ADVERTISING REGULATIONS.—The Com-
15 mission shall prescribe rules in accordance with this
16 subsection to prohibit unfair and deceptive acts and
17 practices in any advertisement for pay-per-call serv-
18 ices. Such rules shall require that the person offer-
19 ing such pay-per-call services—

20 (A) clearly and conspicuously disclose in
21 any advertising the cost of the use of such tele-
22 phone number, including the total cost or the
23 cost per minute and any other fees for that
24 service and for any other pay-per-call service to
25 which the caller may be transferred;

1 (B) in the case of an advertisement which
2 offers a prize or award or a service or product
3 at no cost or for a reduced cost, clearly and
4 conspicuously disclose the odds of being able to
5 receive such prize, award, service, or product at
6 no cost or reduced cost, or, if such odds are not
7 calculable in advance, disclose the factors deter-
8 mining such odds;
9 (C) in the case of an advertisement that
10 promotes a service that is not operated or ex-
11 pressly authorized by a Federal agency but that
12 provides information on a Federal program, in-
13 clude at the beginning of such advertisement a
14 clear disclosure that the service is not author-
15 ized, endorsed, or approved by any Federal
16 agency;
17 (D) shall not direct such advertisement at
18 children under the age of 12, unless such serv-
19 ice is a bona fide educational service;
20 (E) in the case of advertising directed pri-
21 marily to individuals under the age of 18, clear-
22 ly and conspicuously state in such advertising
23 that such individual must have the consent of
24 such individual's parent or legal guardian for
25 the use of such services;

1 (F) be prohibited from using advertise-
2 ments that emit electronic tones which can
3 automatically dial a pay-per-call telephone
4 number;
5 (G) ensure that, whenever the number to
6 be called is shown in television and print media
7 advertisements, the charges for the call are
8 clear and conspicuous and (when shown in tele-
9 vision advertisements) displayed for the same
10 duration as that number is displayed;
11 (H) in delivering any telephone message
12 soliciting calls to a pay-per-call service, specify
13 clearly, and at no less than the audible volume
14 of the solicitation, the total cost and the cost
15 per minute and any other fees for that service
16 and for any other pay-per-call service to which
17 the caller may be transferred; and
18 (I) not advertise an 800 telephone number,
19 or any other telephone number advertised or
20 widely understood to be toll free, from which
21 callers are connected to an access number for a
22 pay-per-call service.
23 (2) PAY-PER-CALL SERVICE STANDARDS.—The
24 Commission shall prescribe rules to require that
25 each provider of pay-per-call services—

1 (A) include in each pay-per-call message
2 an introductory disclosure message that—
3 (i) describes the service being pro-
4 vided;
5 (ii) specifies clearly and at a reason-
6 ably understandable volume the total cost
7 or the cost per minute and any other fees
8 for that service and for any other pay-per-
9 call service to which the caller may be
10 transferred;
11 (iii) informs the caller that charges
12 for the call begin at the end of the intro-
13 ductory message;
14 (iv) informs the caller that parental
15 consent is required for calls made by chil-
16 dren; and
17 (v) in the case of a pay-per-call serv-
18 ice that is not operated or expressly au-
19 thorized by a Federal agency but that pro-
20 vides information on any Federal program,
21 a statement that clearly states that the
22 service is not authorized, endorsed, or ap-
23 proved by any Federal agency;

1 (B) enable the caller to hang up at or be-
2 fore the end of the introductory message with-
3 out incurring any charge whatsoever;
4 (C) not direct such services at children
5 under the age of 12, unless such service is a
6 bona fide educational service;
7 (D) stop the assessment of time-based
8 charges immediately upon disconnection by the
9 caller;
10 (E) disable any bypass mechanism which
11 allows frequent callers to avoid listening to the
12 disclosure message described in subparagraph
13 (A) after the institution of any price increase
14 and for a period of time sufficient to give such
15 frequent callers adequate and sufficient notice
16 of the price change;
17 (F) be prohibited from providing pay-per-
18 call services through an 800 number or other
19 telephone number advertised or widely under-
20 stood to be toll free;
21 (G) be prohibited from billing consumers
22 in excess of the amounts described in the intro-
23 ductory message and from billing for services
24 provided in violation of the rules prescribed by
25 the Commission pursuant to this section;

1 (H) ensure that any billing statement for
2 such provider's charges shall—
3 (i) display any charges for pay-per-
4 call services in a part of the consumer's
5 bill that is identified as not being related
6 to local and long distance telephone
7 charges; and
8 (ii) for each charge so displayed,
9 specify, at a minimum, the type of service,
10 the amount of the charge, and the date,
11 time, and duration of the call;
12 (I) be liable for refunds to consumers who
13 have been billed for pay-per-call services pursu-
14 ant to programs that have been found to have
15 violated the regulations prescribed pursuant to
16 this section or title III of this Act or any other
17 Federal law; and
18 (J) comply with such additional standards
19 as the Commission may prescribe to prevent
20 abusive practices.
21 (3) ACCESS TO INFORMATION.—The Commis-
22 sion shall by rule require a common carrier that pro-
23 vides telephone services to a provider of pay-per-call
24 services to make available to the Commission any
25 records and financial information maintained by

1 such carrier relating to the arrangements (other
2 than for the provision of local exchange service) be-
3 tween such carrier and any provider of pay-per-call
4 services.

5 (4) EVASIONS.—The rules issued by the Com-
6 mission under this section shall include provisions to
7 prohibit unfair or deceptive acts or practices that
8 evade such rules or undermine the rights provided to
9 customers under this title, including through the use
10 of alternative billing or other procedures.

11 (5) EXEMPTIONS.—The regulations prescribed
12 by the Commission pursuant to paragraph (2)(A)
13 may exempt from the requirements of such
14 paragraph—

15 (A) calls from frequent callers or regular
16 subscribers using a bypass mechanism to avoid
17 listening to the disclosure message required by
18 such regulations, subject to the requirements of
19 paragraph (2)(E); or

20 (B) pay-per-call services provided at nomi-
21 nal charges, as defined by the Commission in
22 such regulations.

23 (6) CONSIDERATION OF OTHER RULES RE-
24 QUIRED.—In conducting a proceeding under this
25 section, the Commission shall consider requiring, by

1 rule or regulation, that providers of pay-per-call
2 services—
3 (A) automatically disconnect a call after
4 one full cycle of the program; and
5 (B) include a beep tone or other appro-
6 priate and clear signal during a live interactive
7 group program so that callers will be alerted to
8 the passage of time.
9 (7) SPECIAL RULE FOR INFREQUENT PUBLICA-
10 TIONS.—The rules prescribed by the Commission
11 under subparagraphs (A) and (G) of paragraph (1)
12 may permit, in the case of publications that are
13 widely distributed, that are printed annually or less
14 frequently, and that have an established policy of
15 not publishing specific prices, advertising that in lieu
16 of the cost disclosures required by such subpara-
17 graphs, clearly and conspicuously disclose that use
18 of the telephone number may result in a substantial
19 charge.
20 (8) TREATMENT OF RULES.—A rule issued
21 under this subsection shall be treated as a rule is-
22 sued under section 18(a)(1)(B) of the Federal Trade
23 Commission Act (15 U.S.C. 57a(a)(1)(B)).
24 (b) RULEMAKING.—The Commission shall prescribe
25 the rules under subsection (a) within 270 days after the

1 date of enactment of this Act. Such rules shall be pre-
2 scribed in accordance with section 553 of title 5, United
3 States Code.

4 (c) ENFORCEMENT.—Any violation of any rule pre-
5 scribed under subsection (a) shall be treated as a violation
6 of a rule respecting unfair or deceptive acts or practices
7 under section 5 of the Federal Trade Commission Act (15
8 U.S.C. 45). Notwithstanding section 5(a)(2) of such Act
9 (15 U.S.C. 45(a)(2)), communications common carriers
10 shall be subject to the jurisdiction of the Commission for
11 purposes of this title.

12 **SEC. 202. ACTIONS BY STATES.**

13 (a) IN GENERAL.—Whenever an attorney general of
14 any State has reason to believe that the interests of the
15 residents to that State have been or are being threatened
16 or adversely affected because any person has engaged or
17 is engaging in a pattern or practice which violates any rule
18 of the Commission under section 201(a), the State may
19 bring a civil action on behalf of its residents in an appro-
20 priate district court of the United States to enjoin such
21 pattern or practice, to enforce compliance with such rule
22 of the Commission, to obtain damages on behalf of their
23 residents, or to obtain such further and other relief as the
24 court may deem appropriate.

1 (b) NOTICE.—The State shall serve prior written no-
2 tice of any civil action under subsection (a) upon the Com-
3 mission and provide the Commission with a copy of its
4 complaint, except that if it is not feasible for the State
5 to provide such prior notice, the State shall serve such
6 notice immediately upon instituting such action. Upon re-
7 ceiving a notice respecting a civil action, the Commission
8 shall have the right (1) to intervene in such action, (2)
9 upon so intervening, to be heard on all matters arising
10 therein, and (3) to file petitions for appeal.
11 (c) VENUE.—Any civil action brought under this sec-
12 tion in a district court of the United States may be
13 brought in the district wherein the defendant is found or
14 is an inhabitant or transacts business or wherein the viola-
15 tion occurred or is occurring, and process in such cases
16 may be served in any district in which the defendant is
17 an inhabitant or wherever the defendant may be found.
18 (d) INVESTIGATORY POWERS.—For purposes of
19 bringing any civil action under this section, nothing in this
20 Act shall prevent the attorney general from exercising the
21 powers conferred on the attorney general by the laws of
22 such State to conduct investigations or to administer oaths
23 or affirmations or to compel the attendance of witnesses
24 or the production of documentary and other evidence.

1 (e) EFFECT ON STATE COURT PROCEEDINGS.—
2 Nothing contained in this section shall prohibit an author-
3 ized State official from proceeding in State court on the
4 basis of an alleged violation of any general civil or criminal
5 antifraud statute of such State.

6 (f) LIMITATION.—Whenever the Commission has in-
7 stituted a civil action for violation of any rule or regulation
8 under this Act, no State may, during the pendency of such
9 action instituted by the Commission, subsequently insti-
10 tute a civil action against any defendant named in the
11 Commission's complaint for violation of any rule as alleged
12 in the Commission's complaint.

13 (g) ACTIONS BY OTHER STATE OFFICIALS.—

14 (1) Nothing contained in this section shall pro-
15 hibit an authorized State official from proceeding in
16 State court on the basis of an alleged violation of
17 any general civil or criminal statute of such State.

18 (2) In addition to actions brought by an attor-
19 ney general of a State under subsection (a), such an
20 action may be brought by officers of such State who
21 are authorized by the State to bring actions in such
22 State for protection of consumers and who are des-
23 ignated by the Commission to bring an action under
24 subsection (a) against persons that the Commission
25 has determined have or are engaged in a pattern or

1 practice which violates a rule of the Commission
2 under section 201(a).

3 **SEC. 203. ADMINISTRATION AND APPLICABILITY OF TITLE.**

4 (a) IN GENERAL.—Except as otherwise provided in
5 section 202, this title shall be enforced by the Commission
6 under the Federal Trade Commission Act (15 U.S.C. 41
7 et seq.). Consequently, no activity which is outside the ju-
8 risdiction of that Act shall be affected by this Act, except
9 for purposes of this title.

10 (b) ACTIONS BY THE COMMISSION.—The Commis-
11 sion shall prevent any person from violating a rule of the
12 Commission under section 201 in the same manner, by
13 the same means, and with the same jurisdiction, powers,
14 and duties as though all applicable terms and provisions
15 of the Federal Trade Commission Act (15 U.S.C. 41 et
16 seq.) were incorporated into and made a part of this title.
17 Any person who violates such rule shall be subject to the
18 penalties and entitled to the privileges and immunities
19 provided in the Federal Trade Commission Act in the
20 same manner, by the same means, and with the same ju-
21 risdiction, power, and duties as though all applicable terms
22 and provisions of the Federal Trade Commission Act were
23 incorporated into and made a part of this title.

24 **SEC. 204. DEFINITIONS.**

25 For purposes of this title:

1 (1) The term "pay-per-call services" has the
2 meaning provided in section 228 of the Communica-
3 tions Act of 1934.
4 (2) The term "attorney general" means the
5 chief legal officer of a State.
6 (3) The term "State" means any State of the
7 United States, the District of Columbia, Puerto
8 Rico, the Northern Mariana Islands, and any terri-
9 tory or possession of the United States.
10 (4) The term "Commission" means the Federal
11 Trade Commission.

12 TITLE III—BILLING AND 13 COLLECTION

14 **SEC. 301. REGULATIONS.**

15 (a) IN GENERAL.—
16 (1) RULES REQUIRED.—The Commission shall,
17 in accordance with the requirements of this section,
18 prescribe rules establishing procedures for the cor-
19 rection of billing errors with respect to telephone-
20 billed purchases. The rules prescribed by the Com-
21 mission shall also include provisions to prohibit un-
22 fair or deceptive acts or practices that evade such
23 rules or undermine the rights provided to customers
24 under this title.

1 (2) SUBSTANTIAL SIMILARITY TO CREDIT BILL-
2 ING.—The Commission shall promulgate rules under
3 this section that impose requirements that are sub-
4 stantially similar to the requirements imposed, with
5 respect to the resolution of credit disputes, under
6 the Truth in Lending and Fair Credit Billing Acts
7 (15 U.S.C. 1601 et seq.).
8 (3) TREATMENT OF RULE.—A rule issued
9 under paragraph (1) shall be treated as a rule issued
10 under section 18(a)(1)(B) of the Federal Trade
11 Commission Act (15 U.S.C. 57(a)(1)(B)).
12 (b) RULEMAKING SCHEDULE AND PROCEDURE.—
13 The Commission shall prescribe the rules under subsection
14 (a) within 270 days after the date of enactment of this
15 Act. Such rules shall be prescribed in accordance with sec-
16 tion 553 of title 5, United States Code.
17 (c) ENFORCEMENT.—Any violation of any rule pre-
18 scribed under subsection (a) shall be treated as a violation
19 of a rule under section 5 of the Federal Trade Commission
20 Act (15 U.S.C. 45) regarding unfair or deceptive acts or
21 practices. Notwithstanding section 5(a)(2) of such Act (15
22 U.S.C. 45(a)(2)), communications common carriers shall
23 be subject to the jurisdiction of the Commission for pur-
24 poses of this title.

1 (d) CORRECTION OF BILLING ERRORS AND CORREC-
2 TION OF CREDIT REPORTS.—In prescribing rules under
3 this section, the Commission shall consider, with respect
4 to telephone-billed purchases, the following:
5 (1) The initiation of a billing review by a cus-
6 tomer.
7 (2) Responses by billing entities and providing
8 carriers to the initiation of a billing review.
9 (3) Investigations concerning delivery of tele-
10 phone-billed purchases.
11 (4) Limitations upon providing carrier respon-
12 sibilities, including limitations on a carrier's respon-
13 sibility to verify delivery of audio information or en-
14 tertainment.
15 (5) Requirements on actions by billing entities
16 to set aside charges from a customer's billing state-
17 ment.
18 (6) Limitations on collection actions by billing
19 entities and vendors.
20 (7) The regulation of credit reports on billing
21 disputes.
22 (8) The prompt notification of credit to an ac-
23 count.
24 (9) Rights of customers and telephone common
25 carriers regarding claims and defenses.

1 (10) The extent to which the regulations should
2 diverge from requirements under the Truth in Lend-
3 ing and Fair Credit Billing Acts in order to protect
4 customers, and in order to be cost effective to billing
5 entities.

6 **SEC. 302. RELATION TO STATE LAWS.**

7 (a) STATE LAW APPLICABLE UNLESS INCONSIST-
8 ENT.—This title does not annul, alter, or affect, or exempt
9 any person subject to the provisions of this title from com-
10 plying with, the laws of any State with respect to tele-
11 phone billing practices, except to the extent that those
12 laws are inconsistent with any provision of this title, and
13 then only to the extent of the inconsistency. The Commis-
14 sion is authorized to determine whether such inconsist-
15 encies exist. The Commission may not determine that any
16 State law is inconsistent with any provision of this chapter
17 if the Commission determines that such law gives greater
18 protection to the consumer.

19 (b) REGULATORY EXEMPTIONS.—The Commission
20 shall by regulation exempt from the requirements of this
21 title any class of telephone-billed purchase transactions
22 within any State if it determines that under the law of
23 that State that class of transactions is subject to require-
24 ments substantially similar to those imposed under this
25 chapter or that such law gives greater protection to the

1 consumer, and that there is adequate provision for en-
2 forcement.

3 **SEC. 303. ENFORCEMENT.**

4 The Commission shall enforce the requirements of
5 this title. For the purpose of the exercise by the Commis-
6 sion of its functions and powers under the Federal Trade
7 Commission Act, a violation of any requirement imposed
8 under this title shall be deemed a violation of a require-
9 ment imposed under that Act. All the functions and pow-
10 ers of the Commission under that Act are available to the
11 Commission to enforce compliance by any person with the
12 requirements imposed under this title, irrespective of
13 whether that person is engaged in commerce or meets any
14 other jurisdictional tests in that Act. The Commission may
15 prescribe such regulations as are necessary or appropriate
16 to implement the provisions of this title.

17 **SEC. 304. DEFINITIONS.**

18 As used in this title—

19 (1) The term "telephone-billed purchase"
20 means any purchase that is completed solely as a
21 consequence of the completion of the call or a subse-
22 quent dialing, touch tone entry, or comparable ac-
23 tion of the caller. Such term does not include—

24 "(A) a purchase by a caller pursuant to a
25 preexisting agreement with the vendor;

1 (B) local exchange telephone services or
2 interexchange telephone services or any service
3 that the Federal Communications Commission
4 determines, by rule—
5 (i) is closely related to the provision of
6 local exchange telephone services or
7 interexchange telephone services; and
8 (ii) is subject to billing dispute resolu-
9 tion procedures required by Federal or
10 State statute or regulation; or
11 (C) the purchase of goods or services which
12 is otherwise subject to billing dispute resolution
13 procedures required by Federal statute or regu-
14 lation.
15 (2) A "billing error" consists of any of the fol-
16 lowing:
17 (A) A reflection on a billing statement for
18 a telephone-billed purchase which was not made
19 by the customer or, if made, was not in the
20 amount reflected on such statement.
21 (B) A reflection on a billing statement of
22 a telephone-billed purchase for which the cus-
23 tomer requests additional clarification, includ-
24 ing documentary evidence thereof.

1 (C) A reflection on a billing statement of
2 a telephone-billed purchase that was not accept-
3 ed by the customer or not provided to the cus-
4 tomer in accordance with the stated terms of
5 the transaction.
6 (D) A reflection on a billing statement of
7 a telephone-billed purchase for a call made to
8 an 800 or other toll free telephone number.
9 (E) The failure to reflect properly on a
10 billing statement a payment made by the cus-
11 tomer or a credit issued to the customer with
12 respect to a telephone-billed purchase.
13 (F) A computation error or similar error of
14 an accounting nature on a statement.
15 (G) Failure to transmit the billing state-
16 ment to the last known address of the cus-
17 tomer, unless that address was furnished less
18 than twenty days before the end of the billing
19 cycle for which the statement is required.
20 (H) Any other error described in regula-
21 tions prescribed by the Commission pursuant to
22 section 553 of title 5, United States Code.
23 (3) The term "Commission" means the Federal
24 Trade Commission.

(4) The term "providing carrier" means a local exchange or interexchange common carrier providing telephone services (other than local exchange services) to a vendor for a telephone-billed purchase that is the subject of a billing error complaint.

(5) The term "vendor" means any person who, through the use of the telephone, offers goods or services for a telephone-billed purchase.

(6) The term "customer" means any person who acquires or attempts to acquire goods or services in a telephone-billed purchase.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. PROPOSAL FOR DEMONSTRATING THE POTENTIAL OF INNOVATIVE COMMUNICATIONS EQUIPMENT AND SERVICES.

(a) DEMONSTRATION PROPOSAL.—Within 180 days after the date of enactment of this Act, the Assistant Secretary of Energy for Conservation and Renewable Energy, in consultation with the Assistant Secretary of Commerce for Communications and Information, shall submit to Congress a proposal for demonstrating the ability of new and innovative communications equipment and services to further the national goals of conserving energy and protecting public health and safety.

1 (b) FACTORS TO BE ADDRESSED.—The demonstra-
2 tion proposal required by subsection (a) shall address—
3 (1) the feasibility of using communications
4 technologies to read meters from remote locations;
5 (2) the feasibility of managing the consumption
6 of electrical power and natural gas by residences and
7 businesses, thereby reducing the demand for new
8 and additional sources of energy, and controlling the
9 cost of providing improved utility services; and
10 (3) the public safety implications of monitoring
11 utility services outages during earthquakes, hurri-
12 canes, typhoons, tornadoes, volcanoes, and other
13 natural disasters.
14 (c) PROJECT TO DEMONSTRATE ENERGY CONSERVA-
15 TION POTENTIAL.—Upon submission of the demonstra-
16 tion proposal to the Congress, the Secretary of Energy
17 shall consider requesting from the Assistant Secretary of
18 Commerce for Communications and Information the au-
19 thority to use radio frequencies, pursuant to section 305
20 of the Communications Act of 1934 (47 U.S.C. 305), to
21 carry out demonstration projects consistent with the pro-
22 posal that are designed to demonstrate the energy con-
23 servation potential of communications technologies and
24 which are administered by the Secretary of Energy.

1 **SEC. 402. TECHNICAL AMENDMENTS.**

2 Section 227(b)(2) of the Communications Act of
3 1934 (47 U.S.C. 227(b)(2)) is amended—

4 (1) by striking "and" at the end of subpara-
5 graph (A);

6 (2) by striking the period at the end of sub-
7 paragraph (B) and inserting "; and"; and

8 (3) by inserting after subparagraph (B) the fol-
9 lowing new subparagraph:

10 "(C) may, by rule or order, exempt from
11 the requirements of paragraphs (1)(A)(iii) of
12 this subsection calls to a telephone number as-
13 signed to a cellular telephone service that are
14 not charged to the called party, subject to such
15 conditions as the Commission may prescribe as
16 necessary in the interest of the privacy rights
17 this section is intended to protect.".

18 **SEC. 403. INTERCEPTION OF CELLULAR TELECOMMUNI-**
19 **CATIONS.**

20 (a) AMENDMENT.—Section 302 of the Communica-
21 tions Act of 1934 (47 U.S.C. 302) is amended by adding
22 at the end the following new subsection:

23 "(d)(1) Within 180 days after the date of enactment
24 of this subsection, the Commission shall prescribe and
25 make effective regulations denying equipment authoriza-
26 tion (under part 15 of title 47, Code of Federal Regula-

1 tions, or any other part of that title) for any scanning
2 receiver that is capable of—
3 "(A) receiving transmissions in the frequencies
4 allocated to the domestic cellular radio telecommuni-
5 cations service,
6 "(B) readily being altered by the user to receive
7 transmissions in such frequencies, or
8 "(C) being equipped with decoders that covert
9 digital cellular transmissions to analog voice audio.
10 "(2) Beginning 1 year after the effective date of the
11 regulations adopted pursuant to paragraph (1), no receiv-
12 ing having the capabilities described in subparagraph (A),
13 (B), or (C) of paragraph (1), as such capabilities are de-
14 fined in such regulations, shall be manufactured in the
15 United States or imported for use in the United States.".
16 (b) REPORT TO CONGRESS.—The Commission shall
17 report to Congress no later than June 1, 1993, on avail-
18 able security features for both analog and digital radio sig-
19 nals. This report shall include a study of security tech-
20 nologies currently available as well as those in develop-
21 ment. The study shall assess the capabilities of such tech-
22 nologies, level of security afforded, and cost, with wide-
23 spread deployment of such technologies.
24 (c) EFFECT ON OTHER LAWS.—This section shall
25 not effect section 2512(2) of title 18, United States Code.

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