

its elimination of those that are not necessary.

10. Promotion of Diversity of Programming—Within three years of enactment of the Act, the FCC shall report to the Congress on the extent to which the FCC has promoted competitive, new, and diverse sources of radio programming.●

● Mr. CANNON. Mr. President, the legislation introduced today represents the continued effort by the Senate to amend the Communications Act of 1934. The present law has served us well for the past 47 years; however, we must now enact legislation which reflects today's world.

I am pleased to join Senator GOLDWATER in offering this bill to eliminate some of the burdensome regulations currently applied to the radio broadcasting industry. In the previous Congress, Senators HOLLINGS, PACKWOOD, GOLDWATER, SCHMITT, and I introduced similar legislation intended to substantially deregulate radio while maintaining the public interest standard. I believe the bill introduced today is yet another step forward in the process begun by Senator HOLLINGS and myself to reshape telecommunications policy.

This bill codifies some of the provisions adopted by the Federal Communications Commission in their recent decisions on radio deregulation. Another provision of his legislation is to increase the license terms for radio stations from 3 years to an indefinite period of time. The Commission would employ a system of random selection to choose among qualified applicants for newly available frequencies. Also included in conjunction with the provisions of section 312 of the 1934 Act is the ability of any party of interest to file a petition with the Commission to revoke a license, and upon a reasonable showing, hearings shall be held to determine if the license should be revoked.

Today there are more than 8,500 radio stations. The number of stations has created a highly competitive environment for commercial radio. We must reform the present communications law to meet the challenges that lie ahead in the telecommunications industry. I believe radio deregulation presents an opportunity to continue the deregulatory theme envisioned by the Commerce Committee during the previous Congress.●

By Mr. GOLDWATER (for himself, Mr. PACKWOOD, Mr. SCHMITT, Mr. PRESSLER, Mr. MR. STEVENS, Mr. CANNON, Mr. HOLLINGS, and Mr. INOUE):

271. A bill to repeal section 222 of the Communications Act of 1934; to the Committee on Commerce, Science, and Transportation.

INTERNATIONAL RECORD CARRIER COMPETITION ACT OF 1981

Mr. GOLDWATER. Mr. President, the I introduce today is entitled the International Record Carrier Competition of 1981. It repeals section 222 of the Communications Act of 1934, which restricts Western Union to providing domestic record (telegraph) service. Western Union's provision of international

service is prohibited by section 222. While important in 1943 when it was adopted, section 222 of the Communications Act unreasonably binds Western Union to conditions that make little sense in today's modern, competitive telecommunications environment. Western Union no longer possesses the significant domestic market power it did in 1943. Pursuant to this bill Western Union would no longer be barred by statute from entering international markets. Western Union would be required to provide interconnection with international record carriers on reasonable and nondiscriminatory terms.

Both the Federal Communications Commission (FCC) and the courts have urged repeal of Section 222. In 1977, former FCC Chairman Richard Wiley testified before the Communications Subcommittee that:

Section 222 of the Communications Act which governs international record carriers has impeded rather than enhanced the availability of international communications services.

And on May 9, 1979, FCC Chairman Ferris testified that he strongly favored deletion of section 222.

In 1979 Judge Friendly in *ITT World Communications, Inc. v. FCC*, 595 F.2d 897 (1979) observed that:

Although obscurity in federal statutes is not a new phenomenon to this court, we have rarely seen opacity as dense as here. (Section 222) . . . The best solution . . . would be for Congress to clean away the debris it created 35 years ago and clearly advise what it wants.

See also, *ITT World Communications, Inc. v. FCC*, No. 79-4220, et al., 2d Cir., decided August 25, 1980, slip opinion at 15.

The rationale underlying section 222—that Western Union had a monopoly of record telegraph and record services—has been further eroded since 1977. In 1979, the FCC ended Western Union's historic monopoly in record services. Additional telecommunications companies are ready, willing and able to compete vigorously with Western Union. Furthermore, recent Commission actions have allowed new entry into the international market, expanded the domestic operations of current international record carriers (IRC's), and allowed the formula governing the distribution of unrouted traffic to be negotiated between Western Union and the IRC's.

I am convinced, Mr. President, that repeal of section 222 would leave the FCC with ample authority elsewhere in the act (e.g., sections 202 and 214) to deal with Western Union's distribution of outbound traffic among international carriers. The FCC could use its powers under these sections of the act if it found a need to continue oversight of the distribution of outbound traffic. Section 214 permits the agency to place conditions on facilities certificates, as the public interest may require. For example, the Commission may condition any future certification of Western Union facilities on Western Union's compliance with a fair method of distribution. The FCC also might exercise its authority under section 202 to require Western Union not to discriminate

among the international carriers with respect to traffic distribution. The amendment expressly requires the agency to require Western Union to interconnect fairly with the international carriers. The Commission must insure fair interconnection by Western Union with the IRC's.

Standing alone, repeal of section 222 does not mandate Western Union's entry into international markets. Under section 214 of the Communications Act the timing and conditions of entry would require a determination by the Commission.

The Senate Commerce Committee of the last Congress considered the repeal of section 222, and unanimously adopted it as an amendment to H.R. 6228, the Communications Cross Ownership Act of 1980.

Mr. President, I ask that this bill and a fact sheet describing it be printed in the RECORD at this point in its entirety.

There being no objection, the bill and the factsheet were ordered to be printed in the RECORD, as follows:

S. 271

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Record Carrier Competition Act of 1981".

SEC. 2. Section 222 of the Communications Act of 1934 is repealed.

SEC. 3. Nothing in this Act shall be construed to relieve the Federal Communications Commission from requiring any domestic telegraph carrier to provide interconnections with international record carriers. In making such requirement the Federal Communications Commission shall assure that such interconnections shall be made upon reasonable request and on a nondiscriminatory basis.

FACT SHEET—INTERNATIONAL COMMON CARRIER COMPETITION ACT OF 1981

1. Repeals Section 222 of the Communications Act of 1934.

2. Section 222 of the 1934 Act prohibits Western Union from providing international record or telegraph service. This bill would allow Western Union to compete internationally.

3. The 1934 provision was originally adopted because of Western Union's monopoly in the domestic market.

4. That monopoly no longer exists. Recently, FCC expanded domestic operations of current international record carriers (IRCs), and other companies are ready and able to enter into the record market.

5. This bill does not mandate Western Union entry; under Section 214 of the Communications Act the timing and conditions of entry would require Commission determination.

6. This provision was considered by the Senate Commerce Committee in the 96th Congress and unanimously adopted as an amendment to H.R. 6228, the Communications Cross Ownership Act of 1980.

7. Sponsored by Senator Goldwater, and Senators Packwood, Schmitt, Pressler, Stevens, Cannon, Hollings, and Inouye.●

● Mr. HOLLINGS. Mr. President, I am pleased to join in cosponsoring this bill to repeal section 222 of the Communications Act of 1934. Section 222, which deals with permissive mergers of telegraph carriers, is an archaic remnant of an earlier time when there were only a relative few common carriers offering record services. Today section 222 hinders

rs wider competition in the provision international record services by restricting Western Union to domestic markets. While necessary when adopted in 1943, as Western Union merged with the failing Postal Telegraph Company, legislative apportionment of markets makes little sense in the modern competitive telecommunications environment.

Last year the Federal Communications Commission attempted to reinterpret the rather unclear language of section 222 as to permit Western Union's direct participation in international communications, only to be rebuffed by the U.S. Court of Appeals for the Second Circuit in *ITT World Communications, Inc. v. Federal Communications Commission*, s. 79-4220, 80-4003, 80-4016, 2d Cir. August 25, 1980 (Slip Opinion). In a decision of the same circuit 1 year later, Judge Friendly called for Congressional action of section 222:

We observe preliminarily that although certainty in federal statutes is not a new phenomenon to this court, we have rarely in opacity as dense as here . . . the best solution . . . would be for Congress to clear up the debris it created thirty-five years and clearly advise what it wants. *ITT World Communications, Inc. v. Federal Communications Commission*, 595 F.2d 897, 905 (Cir. 1979).

Mr. President, the bill which I today sponsor could not more clearly demonstrate the congressional intent. Repeal of the provision of the 1934 Communications Act would indicate that the Commission believes that greater competition in international communications is both desirable and desirable. With elimination of section 222, the public potential entrants, and the Commission will be in a position to base necessary business and regulatory decisions on actual market conditions, not artificial legal limitations.

Let me briefly touch upon some of the consequences of this bill. Repeal of section 222 would not result in unwanted options in the current arrangements involving Western Union and the existing international record carriers. It would vitiate outstanding arrangements for distribution of unrouted traffic, and most significantly would not detract from the Commission's authority to require Western Union to interconnect with international carriers. Repeal of section 222 would not lead to any automatic changes in existing services, domestic or international. The Commission would retain the authority to determine the time conditioning of entry. In short, the Commission retains plenary authority in other sections of the Communications Act to assure full and fair competition.

Repeal would not affect full fledged international communications service to Hawaii contemplated by the amendment to section 222 which became law just last December (Public Law 96-590). That law removed anomoly of Hawaii's status as a "international point" for purposes of defining areas from which domestic record carriers (that is Western Union) are excluded. While repeal of section 222 would permit Western Union to service Hawaii under appropriate authorization under

section 214 and to compete with other carriers currently providing service to that market, it would not affect the outstanding authorizations of those other carriers. Hence, repeal of section 222 is fully consistent with Public Law 96-590.

Repeal of section 222 would reflect the judgment of Congress that customers of international record services would stand to benefit from additional competition created by introduction of a viable competitor such as Western Union. Enhanced competition in international markets will likely result in lower prices and increased innovation in services. I urge speedy consideration of this measure. ●

● Mr. CANNON. Mr. President, I am pleased to join Senator GOLDWATER in offering this bill to repeal section 222 of the Communications Act of 1934. While serving a clear purpose when adopted in 1943, section 222 is now outmoded. It precludes the Western Union Telegraph Co. from entering international record communications markets. In 1943, Western Union possessed significant domestic market power. Today, while substantial, that monopoly has been eroded.

In 1979, the Federal Communications Commission ended Western Union's historic monopoly in domestic record services; other carriers are presently competing vigorously with Western Union. Other recent Commission actions have permitted expanded entry into international markets by domestic carriers other than Western Union. Moreover, international carriers, Western Union's potential competitors, have been accorded expanded domestic U.S. operations. The recent decision by the Federal Communications Commission, revisions in the structure of domestic and international communications, and technological changes have faced Western Union with more competition domestically, justifying Western Union's re-entry into international record carrier operations.

I have long believed that customers for international record services would profit from Western Union's added competition with other international carriers. Introduction of Western Union as a new competitor may well lead to lower prices and encourage greater service innovation. In the last Congress, I co-authored bills (S. 611 and S. 2827) containing provisions to repeal section 222. Unfortunately, owing to circumstances wholly unrelated to the merits of this repeal, we were unable to report these bills out of the Commerce Committee. However, in the final days of the 96th Congress we were able to enact and have signed into law a bill (S. 3261, P.L. 96-590) to correct inequities which that archaic section produced for the State of Hawaii. Just last December during the postelection session, I supported an amendment in committee to another bill (H.R. 6228) which would repeal section 222. That bill also failed to pass, again for unrelated reasons.

Clearly prompt congressional action on this bill is required. I hope we can give expedited consideration of this important measure to customers of international telecommunications services and the companies which serve them. ●

By Mr. THURMOND (by request):
S. 286. A bill to authorize certain construction at military installations for fiscal year 1982, and for other purposes; to the Committee on Armed Services.

MILITARY CONSTRUCTION AUTHORIZATION BILL

Mr. THURMOND. Mr. President, I am introducing, by request, the fiscal year 1982 military construction authorization bill. This is the bill drafted by the Carter administration and it totals \$6.660 billion in new construction authority. Details concerning the bill are included in the letter of transmittal from the Defense Department which follows this statement.

Mr. President, this bill does represent a substantial increase in military construction over previous years, an increase that I feel is long overdue. I fully expect that the Defense Department will review military construction as part of the overall defense review that President Reagan has promised. Further increases in the form of a fiscal year 1981 supplemental and a fiscal year 1982 budget amendment, are anticipated.

Mr. President, I ask unanimous consent that the transmittal letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, D.C., January 23, 1981.

Hon. GEORGE BUSH,
President of the Senate
Washington, D.C.

DEAR MR. PRESIDENT: In accordance with section 802 of Pub. L. No. 95-356 there is forwarded herewith a draft of legislation "To authorize certain construction at military installations for Fiscal Year 1982, and for other purposes." This legislation is consistent with the Budget of the United States for Fiscal Year 1982 as sent to the Congress on January 15, 1981. Appropriations in support of Titles I through IX of this legislation are discussed in that Budget.

The Budget as submitted on January 15, 1981 is presently under review and modifications to this legislation may be required based on the results of that review to conform this legislation to the program of the President.

Titles I, II, III, IV, and V of this proposal would authorize \$4,170,848,000 in new construction for requirements of the Active Forces, of which \$813,265,000 are for the Department of the Army; \$1,074,183,000 for the Department of the Navy; \$1,610,000,000 for the Department of the Air Force; \$248,400,000 for the Defense Agencies; and \$425,000,000 for the United States' share of the NATO Infrastructure Program.

Title VI contains legislative recommendations considered necessary to implement the Department of Defense family housing and homeowners assistance programs and authorizes \$2,284,888,000 for the cost of this program for FY 1982.

Title VII contains Authorization of Appropriations and Administrative Provisions generally applicable to the Military Construction Program. Title IX contains nonrecurring general provisions applicable to the Military Construction Program.

Title VIII totaling \$204,800,000 would authorize construction for the Guard and Reserve Forces, including \$41,500,000 for the Army National Guard; \$31,200,000 for the Army Reserve; \$24,100,000 for the Naval and Marine Corps Reserves; \$79,500,000 for the Air National Guard; and \$28,500,000 for the Air Force Reserve. These authorizations are