

law should be construed to prohibit United States communication common carriers from rendering free communication services to official participants in the world telecommunications conferences which were held in the United States in 1947.

EXECUTIVE ORDER No. 10460

Ex. Ord. No. 10460, eff. June 18, 1953, 18 F.R. 3513, as amended by Ex. Ord. No. 10773, eff. July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, eff. Sept. 8, 1958, 23 F.R. 6971, which related to the performance of telecommunication functions by Director of the Office of Civil and Defense Mobilization, was revoked by section 4 of Ex. Ord. No. 10995, eff. Feb. 16, 1962, 27 F.R. 1519.

§ 152. Application of chapter

(a) The provisions of this chapter shall apply to all interstate and foreign communication by wire or radio and all interstate and foreign transmission of energy by radio, which originates and/or is received within the United States, and to all persons engaged within the United States in such communication or such transmission of energy by radio, and to the licensing and regulating of all radio stations as hereinafter provided; but it shall not apply to persons engaged in wire or radio communication or transmission in the Canal Zone, or to wire or radio communication or transmission wholly within the Canal Zone. The provisions of this chapter shall apply with respect to cable service, to all persons engaged within the United States in providing such service, and to the facilities of cable operators which relate to such service, as provided in subchapter V-A.

(b) Except as provided in sections 223 through 227 of this title, inclusive, and section 332 of this title, and subject to the provisions of section 301 of this title and subchapter V-A, nothing in this chapter shall be construed to apply or to give the Commission jurisdiction with respect to (1) charges, classifications, practices, services, facilities, or regulations for or in connection with intrastate communication service by wire or radio of any carrier, or (2) any carrier engaged in interstate or foreign communication solely through physical connection with the facilities of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with such carrier, or (3) any carrier engaged in interstate or foreign communication solely through connection by radio, or by wire and radio, with facilities, located in an adjoining State or in Canada or Mexico (where they adjoin the State in which the carrier is doing business), of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with such carrier, or (4) any carrier to which clause (2) or clause (3) of this subsection would be applicable except for furnishing interstate mobile radio communication service or radio communication service to mobile stations on land vehicles in Canada or Mexico; except that sections 201 to 205 of this title shall, except as otherwise provided therein, apply to carriers described in clauses (2), (3), and (4) of this subsection.

(June 19, 1934, ch. 652, title I, § 2, 48 Stat. 1064; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; Apr. 27, 1954, ch. 175, § 1, 68 Stat. 63; Pub. L. 95-234, § 5, Feb. 21, 1978, 92 Stat. 35; Pub.

L. 98-549, § 3(a), Oct. 30, 1984, 98 Stat. 2801; Pub. L. 101-166, title V, § 521(2), Nov. 21, 1989, 103 Stat. 1193; Pub. L. 101-336, title IV, § 401(b)(1), July 26, 1990, 104 Stat. 369; Pub. L. 102-243, § 3(b), Dec. 20, 1991, 105 Stat. 2401; Pub. L. 103-66, title VI, § 6002(b)(2)(B)(i), Aug. 10, 1993, 107 Stat. 396.)

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 subsec. (a), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Words "the Philippine Islands or" were omitted from this section on authority of Proc. No. 2695, issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse, which recognized the independence of the Philippine Islands as of July 4, 1946. Proc. No. 2695 is set out under section 1394 of Title 22.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103-66 inserted "and section 332 of this title," after "inclusive."

1991—Subsec. (b). Pub. L. 102-243 substituted "Except as provided in sections 223 through 227 of this title, inclusive," for "Except as provided in section 223 or 224 of this title".

1990—Subsec. (b). Pub. L. 101-336, which directed substitution of "sections 224 and 225" for "section 224", could not be executed because of the intervening amendment by Pub. L. 101-166 which substituted "section 223 or 224" for "section 224". See 1989 Amendment note below.

1989—Subsec. (b). Pub. L. 101-166 substituted "section 223 or 224" for "section 224".

1984—Subsec. (a). Pub. L. 98-549, § 3(a)(1), inserted provision making this chapter applicable with respect to cable service, to all persons engaged within the United States in providing such service, and to the facilities of cable operators which relate to such service, as provided in subchapter V-A of this chapter.

Subsec. (b). Pub. L. 98-549, § 3(a)(2), inserted "and subchapter V-A" after "section 301 of this title".

1978—Subsec. (b). Pub. L. 95-234 substituted "Except as provided in section 224 of this title and subject" for "Subject".

1954—Subsec. (b). Act Apr. 27, 1954, made it clear that intrastate communication service, whether by "wire or radio", would not be subject to the Commission's jurisdiction over charges, classifications, etc., and added cls. (3) and (4).

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-166, title V, § 521(3), Nov. 21, 1989, 103 Stat. 1194, provided that: "The amendments made by this subsection [probably should be "section", which amended this section and section 223 of this title] shall take effect 120 days after the date of enactment of this Act [Nov. 21, 1989]."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-549 effective 60 days after Oct. 30, 1984, except where otherwise expressly provided, see section 9(a) of Pub. L. 98-549, set out as a note under section 521 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-234, § 7, Feb. 21, 1978, 92 Stat. 36, provided that: "The amendments made by this Act [enacting section 224 of this title, amending this section and sections 503 and 504 of this title, repealing sections 510 of this title, and enacting provisions set out as a note

under section 609 of this title] shall take effect on the thirtieth day after the date of enactment of this Act [Feb. 21, 1978]; except that the provisions of sections 503(b) and 510 of the Communications Act of 1934 [sections 503(b) and 510 of this title], as in effect on such date of enactment, shall continue to constitute the applicable law with the respect to any act or omission which occurs prior to such thirtieth day."

APPLICABILITY OF CONSENT DECREES AND OTHER LAW

Pub. L. 104-104, title VI, §601, Feb. 8, 1996, 110 Stat. 143, provided that:

"(a) APPLICABILITY OF AMENDMENTS TO FUTURE CONDUCT.—

"(1) AT&T CONSENT DECREE.—Any conduct or activity that was, before the date of enactment of this Act [Feb. 8, 1996], subject to any restriction or obligation imposed by the AT&T Consent Decree shall, on and after such date, be subject to the restrictions and obligations imposed by the Communications Act of 1934 [47 U.S.C. 151 et seq.] as amended by this Act and shall not be subject to the restrictions and the obligations imposed by such Consent Decree.

"(2) GTE CONSENT DECREE.—Any conduct or activity that was, before the date of enactment of this Act, subject to any restriction or obligation imposed by the GTE Consent Decree shall, on and after such date, be subject to the restrictions and obligations imposed by the Communications Act of 1934 as amended by this Act and shall not be subject to the restrictions and the obligations imposed by such Consent Decree.

"(3) MCCAW CONSENT DECREE.—Any conduct or activity that was, before the date of enactment of this Act, subject to any restriction or obligation imposed by the McCaw Consent Decree shall, on and after such date, be subject to the restrictions and obligations imposed by the Communications Act of 1934 as amended by this Act and subsection (d) of this section and shall not be subject to the restrictions and the obligations imposed by such Consent Decree.

"(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&T Consent Decree

The term “AT&T Consent Decree” means the order entered August 24, 1982, in the anti-trust 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 telecommuni-