

FEDERAL COMMUNICATIONS COMMISSION
AUTHORIZATION ACT OF 1989

OCTOBER 27, 1989.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DINGELL, from the Committee on Energy and Commerce,
submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 3265]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3265) to amend the Communications Act of 1934 to provide authorization of appropriations for the Federal Communications Commission, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment strikes out all after the enacting clause of the bill and inserts a new text which appears in italic type in the reported bill.

BACKGROUND AND NEED

The Federal Communications Commission is an independent agency charged with regulating interstate and foreign communications by means of radio, television, wire, cable and satellite. Beginning in 1981, Congress adopted a two year authorization for the Commission (Public Law 97-258) to permit regular oversight of Commission activities. The Committee will continue to monitor the Commission's activities to ensure the orderly implementation of communications policy as established by Congress.

The Commission's role has never been more important than at this crucial juncture in economic history. During the past several decades, the U.S. and its competitors have begun to make the transition from the industrial age to an era when information is the critical resource fueling economic growth. Today, the information economy accounts for more than one trillion dollars in public and private investment; the telecommunications industry alone accounts for nearly six percent of America's Gross National Product.

In FY 1989, the Commission received direct appropriations of \$99,613,000, and other budget authority to obligate an estimated \$1,247,000 in funds from indefinite appropriations. The Commission estimates it spent a total of \$100,860,000 through September 1989. The Committee is authorizing an appropriation of \$109,831,000; a level identical to the President's request, which represents an increase of 8.9 percent over total FY 1989 spending.

FY 1990 AUTHORIZATION

The FY 1990 budget authorization is based on the FCC's FY 1989 appropriation plus funds to cover the following additional expenses:

- \$2,413,000 for increased personnel compensation and benefits costs;
- \$909,000 for uncontrollable FY 1990 cost increases;
- \$577,000 to restore funds to non-personnel accounts that were reduced to cover a shortage in FY 1989 compensation accounts;
- and \$6,319,000 for programmatic increases.

This authorization will allow the Commission to meet its current and future workload through increased productivity rather than staff increases. Much of the increased productivity will be realized through automation; nearly 40 percent of the programmatic increases are for computer support and other automation enhancements, including:

- completing migration of the Broadcast Application Process from a Honeywell mainframe to DEC mini-computers;

- enhancing all Field Operations enforcement activities while providing back-up support for the filing systems of the current network;

- completing the automation of the licensing system for Private Radio activity;

- enhancing the automated reporting and management information system;

- acquiring ADP equipment for performing domestic engineering analysis and developing models to support international conference projects; and

- expanding use of state-of-the-art-technology for storage and retrieval of records, support of critical Commission-wide activities, and completion of the office automation network.

In addition to automation, the Commission plans to utilize funds for other program improvements it considers vital. Among the most significant is funding for 40 additional full-time equivalent (FTE) staff to accomplish the mandated responsibilities of the Commission. Funds will also be used for cross-servicing the Commission payroll/personnel system to make it more cost-efficient. The Commission will also expand funds to begin the in-depth architectural, engineering, and telecommunications planning and analysis necessary for its consolidation into a single headquarters facility.

A summary of the Commission's budgets for 1988-1990, along with organization with employee numbers, follows:

BUDGETS, 1988-90 (WITH NUMBER OF PERMANENT EMPLOYEES)

[Dollar amounts in thousands]

	1988 (actual)	1989 (estimate)	1990 (request)	Change ¹ 1989-90	Funding change percent 1989-90
Commissioners	\$2,041	\$2,937	\$3,063	\$126	4.3
Employees	36	36	36	0
Mass Media	\$21,430	\$20,911	\$22,672	\$1,761	8.4
Employees	390	390	390	0
Common Carrier	\$19,515	\$19,439	\$20,869	\$1,457	7.5
Employees	334	334	334	0
Private Radio	\$8,469	\$8,794	\$9,190	\$396	4.5
Employees	213	213	213	0
Field Operations	\$21,418	\$19,916	\$21,034	\$1,118	5.6
Employees	407	407	407	0
Engineering and Technology	\$5,862	\$5,869	\$6,272	\$376	6.4
Employees	95	95	96	1
Support	\$23,179	\$22,967	\$26,704	\$3,737	16.3
Employees	412	412	412	0
Total	\$101,914	\$100,860	\$109,831	\$8,971	8.9
Employees	1,889	1,889	1,889	0

¹ Includes adjustments to the base for fixed cost increases.

The Commissioners' office activities include all adjudicatory and policy-making functions.

The Mass Media Bureau licenses, develops, and regulates mass media services, both audio and video, in traditional broadcasting, cable television, and emerging video services such as Direct Broadcast Satellite (DBS). The Bureau also generates substantial work for the Administrative Law Judges, the Review Board, the Adjudication Division of the General Counsel's Office, and the Dockets Branch of the Secretary's Office, all of which receive some funding under this portion of the budget.

The Common Carrier Bureau develops and administers programs to regulate interstate and foreign communications services for hire--whether by wire, radio, cable, or other technologies. The Communications Act requires carriers to provide service on request and at reasonable and nondiscriminatory rates. To this end, the Bureau requires regulated carriers to periodically file tariff schedules (lists that describe services and charges) for review and possible adjustment, and also file financial and operating reports. Commission approval is also generally required before carriers may construct, acquire, or operate facilities, and before carriers may curtail services offered to the public.

The Private Radio Bureau oversees the radio spectrum space used by businesses, state and local governments, aircraft, ships, and individuals. There are approximately 2.5 million licensees. This bureau evaluates new radio technologies, allocates and assigns the spectrum space used by civilians (the National Telecommunications and Information Administration (NTIA) exercises jurisdiction over the U.S. government's share--approximately one-half of all usable space), and resolved "interference" conflicts among licensees.

The Field Operations Bureau is the Commission's primary point of contact with the public. From 43 field offices in the U.S. and Puerto Rico, the Commission provides spectrum users with information regarding Commission rules and regulations, gives examinations leading to the issuance of radio operator licenses and repair technician licenses, and regulates antenna structural requirements to promote aviation safety. In addition, the Inspections and Investigations Program resolves interference disputes and curtails the use of illegal radio equipment.

The Engineering and Technology Bureau affords the Commission the technological basis from which to regulate the radio spectrum. The bureau oversees five programs: the Technical Analysis Program which gives advice regarding cases currently before the Commission and does long-term studies on technical issues; the International Telecommunication Union Program which works with the International Telecommunications Union (ITU), a U.N. agency, to develop regulations which, upon ratification, become international treaties binding on the U.S.; the National Spectrum Management program which initiates rulemaking proceedings to allocate the spectrum and coordinates with NTIA to develop national spectrum policies; the Equipment Standards and Approval program which develops technical standards for licensed equipment, accessory devices, and unlicensed equipment operated under Commission rules;

and the Technology Planning Program which keeps abreast of new technologies and educates FCC staff.

The support activity includes the Office of General Counsel, which advises the Commission on the legality of its actions in rule-makings and adjudications, represents the Commission in Federal appellate court, and assists the Department of Justice in representing the Commission in Federal district court. The Office of Legislative Affairs acts as liaison to Congress and the public.

FY 1991 AUTHORIZATION

The Committee adopted a substitute that incorporated changes requested by the Commission to its FY 1991 funding request. The Commission made a preliminary estimate regarding its FY 1991 appropriations requirements in early 1989, which was the basis for H.R. 3265 as introduced.

Following a comprehensive review of its requirements, the Commission in October 1989 submitted its FY 1991 budget request to the Office of Management and Budget. That statement of agency requirements calls for a budget of \$121.5 million. The additional \$3.6 million in FY 1991 outlays will fund, among other items, the repair and replacement of antiquated technical equipment (\$.9 million), the improvement of the Commission's computer operations (\$1.5 million), the replacement of specially equipped motor vehicles used for field monitoring and enforcement operations (\$225,000), and the hiring of 66 new employees to fill currently vacant positions.

The increased funding for FY 1991 will help the Commission to meet several of its principal objectives. For example, a major objective of the Commission is to reduce delays. The FY 1991 authorized funding level should enable the Commission to reduce the amount of time needed to process broadcast applications. Section 2 funding will permit the Commission to upgrade or replace laboratory testing equipment and speed its testing procedure. In addition, increased funding will also help to improve the Commission's overall radio frequency management process, especially important in light of increasing private and government demand.

Specifically, Section 2 of the bill as reported authorizes \$109.8 million for the Commission in FY 1990, including \$3.3 million for fixed cost increases and \$6.3 million for programmatic increases. Staffing will increase from 1767 FTEs in FY 1989 to 1783 FTEs in FY 1990. The FY 1991 authorization of \$121.5 million includes \$1.6 million for fixed cost increases and \$10.7 million for programmatic increases, and will allow staffing to reach to 1849 FTEs.

In addition, Section 2 authorizes the commission to retain up to 4 percent of the fees and other charges it collects through the statutory Schedule of Charges and penalties for use in defraying the cost of implementing and operating an expanded fee collection program. This authority includes all sums collected during FY 1990 or FY 1991, with the money remaining available until expended for the purposes authorized herein.

The Commission is now required to collect fees in accordance with a statutory Schedule of Charges contained at Section 8 of the Communications Act. Except for a one-time authorization in 1987

that permitted the Commission to recover the administrative costs of implementing the fee collection program from fee receipts, all moneys collected under this program are deposited in the Treasury General Account. Under language contained in the Consolidated Omnibus Budget Reconciliation Act of 1989, the Schedule of Charges would be expanded to encompass more than three times as many applications and double expected revenues. The Commission estimates that approximately \$2 million would be required to expand its current collection program and to operate it for the first year.

MODERNIZATION OF LABORATORY

The Subcommittee unanimously adopted an amendment which directed the Commission to expend as much as \$2 million of funds appropriated for FY 1991 for upgrading and modernizing equipment at the Commission's electronic emission test laboratory at Laurel, Maryland.

The laboratory is essential for the Commission to meet its responsibilities to conduct testing for the Commission's equipment authorization program, make measurements to determine appropriate technical standards for most radio frequency equipment, and evaluate new technologies in order to determine their spectrum efficiency and their compatibility with other technologies and services. Before new electronic products can be sold in this country, each must be tested at the Laurel facility to ensure that the electronic emissions do not interfere with airborne communications.

The main laboratory facility was constructed in 1974. Most of the test equipment dates back to that period. Some, however, is from the late 1940's. Over the last decade and a half, while the telecommunications industry has made major technological advances, budget constraints have prevented the Commission from expending sufficient funds to replace or upgrade necessary equipment. In some cases, procedures which might take a few hours at private laboratories can take weeks at the Commission facilities in Laurel due to antiquated testing equipment. The Committee believes these delays can seriously impede the United States' competitiveness in the electronics industry. In addition, the Committee recognizes that modernization of the Laurel facilities is essential if the Commission is to continue to perform an active role in the development and implementation of emerging technologies, such as HDTV and advanced personal communications.

The Committee expects the Commission to expend up to \$2 million to upgrade or replace equipment at the laboratory. Although the Committee permits the Commission to use its discretion in establishing the priorities for the laboratory's modernization, it expects that the funds will be primarily used for the purchase of new equipment. The Commission anticipates the necessary equipment purchases would include, but not be limited to: programmable spectrum analyzers and signal generators; an enclosed test site for radiated emission measurements; and computers for technical analysis.

OPERATOR EXAMINATIONS

Section 3 of this bill grants the Commission authority to delegate its commercial radio operator examination services to outside parties. The Committee finds, based on the record developed in the Commission's Notice of Inquiry, that this will improve public access to testing. The overwhelming majority of those who filed comments to the Inquiry stated that a private entity could, with proper commission oversight, develop more meaningful examinations. New exams could test more accurately for the aptitude necessary to operate modern commercial radio equipment. Commentators also agreed that a private entity could meet public demands better by offering the examinations more frequently and at more sites. Budget restrictions have forced the Commission to reduce examination offerings to a quarterly schedule. Exams are administered only in those cities with a Commission office, instead of where sufficient demand exists.

These changes in existing law would give the Commission the flexibility to meet the public's expressed need for more contemporary, meaningful, frequent and convenient examinations. In addition, this provision will reduce the Commission's burden of having to administer an examination program and will save the Commission approximately \$40,000 annually that presently is being expended on rental of space for the administration of examinations and for the proportionate salaries of employees involved.

TARIFF NOTICE PERIOD

Section 6 of H.R. 3265 amends Section 213(b) of the Communications Act to extend the existing 90-day notice period for tariff filings to 120-days for periodic exchange access tariff filings. When the present period was enacted, the Commission received far fewer tariff filings than it does now. A 90-day period was manageable and workable. However, with the advent of access tariff filings by, or on behalf of, all exchange carriers in the United States, the staff and the public are increasingly called upon to examine multiple tariff filings simultaneously. The 90-day period is imposing severe burdens on the Common Carrier Bureau staff and on members of the public, who wish to examine, comment on, or challenge the filings.

Furthermore, this problem is expected to increase in severity in the future. Although each of the more than 1300 exchange carriers may maintain individual access tariffs at the Commission, the initial tariffs filed in 1984 were mostly in the form of a single filing by the National Exchange Carriers Association (NECA) on behalf of almost all exchange carriers, with few individual non-NECA filings. The differences between the individual filings and the industry-wide NECA one were very limited. In the 1985 round, more carriers chose to file individually. Their individual filings differed significantly from the NECA filing and from one another.

In June 1988, the Commission adopted an Order which permits small telephone companies to file individual tariffs rather than participate in the NECA tariff filings. This Commission action, together with tariff changes which took effect in April 1989, are expected to increase the number of individual access filings in the future.

The Committee believes that the Commission and the public need an adequate opportunity to examine access tariff filings. By allowing the Commission an additional thirty days to review annual access tariff filings, the Committee believes it will help ensure that all interested parties have an opportunity to review these tariffs.

AMATEUR RADIO SERVICE RECIPROCAL PERMITS

The Committee finds that the Commission request for authority to issue amateur radio service reciprocal permits will assist the U.S. amateur radio community. The Inter-American Telecommunications Conference adopted the Inter-American Amateur Radio Service Convention at its meeting in Lima, Peru, in August 1987. This is a multilateral convention which provides procedures for obtaining reciprocal operating privileges by amateurs in any of the signatory countries. H.R. 3265 authorizes the Commission to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station in the U.S. provided there is in effect a multilateral or bilateral agreement between the U.S. and the alien's government for such operation on a reciprocal basis by U.S. amateur radio operators. This would allow amateur radio operators in the U.S. to operate radio equipment in any country that is party to the multilateral agreement.

WILLFUL OR MALICIOUS INTERFERENCE

The Committee accepts the Commission's assertions and evidence that a substantial increase in willful and malicious interference to radio communications in various radio services, particularly the Amateur, Maritime, and Citizens Band Radio Services, has occurred during the past several years. Therefore, H.R. 3265 includes a provision which prohibits intentional jamming, deliberate transmission on top of the transmissions of authorized operators already using specific frequencies in order to obstruct their communications, repeated interruptions, and the use and transmission of whistles, tapes, records, or other types of noisemaking devices to interfere with the communications or radio signals of other stations. As a result of limited Commission field investigative resources, local groups or radio users have attempted, in some cases, to retaliate against the offenders by causing interference to their communications. While such intentional and malicious interference to radio operations has primarily occurred in the radio services mentioned above, more isolated instances of deliberate and malicious interference to radio operations and signals in other services, including public safety, private land mobile, and cable television, also appear to be increasing. Additionally, Federal agencies that are not Commission licensees, such as the FAA and the Department of Defense, also have encountered willful and malicious interference to their communications and have requested Commission assistance.

Lacking any general statutory prohibition in the Communications Act of 1934 against willful or malicious interference, the Commission is forced to rely upon the more limited licensed operator provision of the Act concerning interference. These provisions authorize the Commission to suspend and revoke licenses in serious

cases and to issue administrative monetary forfeitures in less serious instances. However, the length and complexity of these administrative proceedings and sanctions have not always provided an adequate and timely remedy for immediately ending specific instances of serious, malicious interference or stemming the overall increase of willful interference. Many times a perpetrator will continue to cause interference until actual suspension or revocation of his or her license or after the imposition of monetary forfeiture by the Commission. Moreover, since the stated maximum penalty is \$500 per day, the Commission argues that it is difficult to convince the U.S. Attorney's Office to expend their limited resources in pursuing such a prosecution.

The Committee finds that the provision in Section 8 will assist the Commission in curtailing willful and malicious interference by clearly making such activity a criminal offense subject to fines of up to \$10,000, or imprisonment for up to one year, or both, for a first offense, and the same fine limitation and up to two years imprisonment for repeated offenses. The Sentencing Reform Act of 1984 established alternative fine limits of up to \$100,000 for the first such misdemeanor offense and \$250,000 for a repeated or felony offense. The provision allows the Commission, in serious instances, to initially seek immediate criminal prosecution by the U.S. Attorney for such violations and to seize the offending radio equipment through execution by U.S. Marshals of a properly executed search warrant. The Commission could thereby dispense with the necessity of first completing lengthy, complex, and costly administrative proceedings.

The Committee finds that placement of the proposed general prohibition against intentional interference in the Act, in addition to elevating the gravity of such violations, will increase public awareness of the prohibition against this particularly disruptive type of violation. Moreover, this section will apply to willful or malicious interference with such government facilities. It would provide the Commission, when requested to do so by another Federal agency, with a stronger basis for investigating and seeking prosecution by the U.S. Attorney. The Committee believes this provision will not have a significant impact on present or projected FCC budgetary requirements.

FOREIGN COMMERCE CONSIDERATIONS

In adopting Section 9 of this Act, the Committee is expressing its recognition that decisions made by the Commission can have an impact on the foreign commerce of the United States and that the Commission should assess the impact of its decisions in this regard. The Committee also recognizes, however, that while the U.S. market is more open than most, unilateral action on the part of the FCC to limit access by foreign-owned or controlled companies could interfere or conflict with U.S. Government trade policy objectives or negotiations.

This provision is not meant to create new Commission authority or to limit the Commission's existing authority under the Communications Act's public interest standard. The Committee adopts this provision to clarify and make explicit the Commission's existing

authority to assess the effect of each of its decisions or determinations on foreign commerce of the United States.

Commission decisions or determinations with respect to certification of equipment are exempted from this provision. By "certification of equipment", the Committee intends that equipment authorization procedures, such as type approval, type acceptance, certification, notification and registration, and equipment verification procedures, are excluded from the scope of this subsection.

HIGH DEFINITION TELEVISION (HDTV)

During full Committee markup of H.R. 3265, members of the Committee expressed their concern over the lack of attention and resources being dedicated to a high definition television transmission standard and related high definition activities projects by the Federal Communications Commission. In an effort to remedy the situation, an amendment was offered, which would require the Commission to submit quarterly reports during FY 1990 and 1991 specifying the number of full-time employees devoted to the development and promulgation of standards for high definition television.

Although the Amendment was subsequently withdrawn, it is clear that HDTV is an important emerging technology which warrants further attention and resources by the Commission, and the Committee admonishes the Commission to make sure it devotes sufficient resources to its HDTV activities.

HEARINGS

On September 14, 1989, the Subcommittee held a hearing on H.R. 3265 to authorize appropriations for the Federal Communications Commission and for other purposes. Testifying before the Subcommittee were the Chairman of the Federal Communications Commission, Alfred C. Sikes, and Commissioners James H. Quello, Sherrie Marshall, and Andrew Barrett. In addition, the Subcommittee has held periodic oversight hearings at which officials from the FCC have testified.

COMMITTEE CONSIDERATION

On October 12, 1989, the Subcommittee on Telecommunications and Finance met in open markup session and reported the bill H.R. 3265, as amended, by a voice vote.

On October 24, 1989, the Committee met in open markup session and ordered reported the bill H.R. 3265, amended, by voice vote, a quorum being present. The Committee adopted an amendment making explicit the Commission's discretionary authority to assess the effect of its decisions or determinations on foreign commerce.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause (2)(1)(3)(a) of rule XI of the Rules of the House of Representatives, the Committee has made findings that are reflected in this legislative report.

COMMITTEE ON GOVERNMENT OPERATIONS

Pursuant to clause (2)(1)(3)(a) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Operations.

COMMITTEE COST ESTIMATE

In compliance with the clause 7(a) of rule XIII of the Rules of the House of Representatives, the Committee believes that the cost of carrying out H.R. 3265 would be \$109.8 million in FY 1990 and \$121.4 million in FY 1991.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 27, 1989.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 3265, the Federal Communications Commission Authorization Act of 1989.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER, *Director.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 3265.
 2. Bill title: Federal Communications Commission Authorization Act of 1989.
 3. Bill status: As ordered reported by the House Committee on Energy and Commerce, October 24, 1989.
 4. Bill purpose: H.R. 3265 would authorize the appropriation of \$109.8 million for fiscal year 1990 and \$121.5 million for fiscal year 1991 to carry out the programs of the Federal Communications Commission (FCC). The bill would authorize additional funds for fiscal years 1990 and 1991 for increases in salary, pay, and other employee benefits as authorized by law. In addition, H.R. 3265 would permit the FCC to use up to 4 percent of fees collected to defray the costs of collecting the fees. The bill also makes a number of changes to FCC policies and procedures.
- Total budget authority for fiscal year 1989 was \$100.4 million. The President requested a 1990 appropriation of \$109.8 million, the same amount as in the bill.
5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	1994
Direct spending:					
Estimated budget authority	1.0	1.0	1.0	1.0	1.0
Estimated outlays	0.9	1.0	1.0	1.0	1.0
Authorizations:					
Specified (Function 370)	109.8	121.5			

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	1994
Estimated (Function 920)	2.0	3.6			
Total estimated authorization	111.8	125.1			
Estimated outlays	105.2	124.3	7.4		

The costs of this bill fall primarily within budget function 370.

Basis of Estimate: For the purposes of this estimate, it was assumed that the full amounts authorized would be appropriated for each fiscal year. The increases for salary, pay, and other employee benefits authorized by law in 1990 and 1991 are estimated consistent with the assumptions of the Concurrent Resolution on the Budget for Fiscal Year 1990 (H. Con. Res. 106). Outlays reflect historical spending patterns for the ongoing activities of the FCC.

The estimate of direct spending assumes that the FCC would use 4 percent of fee income to defray the costs of collecting such fees. The fees are expected to total about \$25 million each year. As a result, the FCC would have additional spending authority of about \$1 million annually for administrative expenses.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: On October 13, 1989, CBO transmitted to the Senate Committee on Commerce, Science, and Transportation a cost estimate for S. 1022, a bill to reauthorize the FCC for fiscal years 1990 and 1991. The authorization levels in the Senate bill were lower than in the House bill and the estimated outlays reflect that difference.

9. Estimate prepared by: Douglas Criscitello.

10. Estimate approved by: C.G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee makes the following statement with regard to the inflationary impact of the reported bill: The Committee believes that enactment of H.R. 3265 will have no inflationary impact on the overall economy.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section states that the bill is entitled the "Federal Communications Commission Authorization Act of 1989".

Section 2. Authorization of appropriations

Section 2 amends Section 6 of the Communications Act of 1934 to authorize funding for the Federal Communications Commission a level of \$109,831,000 for fiscal year 1990 and \$121,478,000 for fiscal year 1991, together with such sums as may be required for necessary nondiscretionary cost increases.

Section 2 also authorizes the Commission to retain not more than 4 percent of the amount of any fees or charges collected by the Commission to defray the costs of collection.

Section 2 also directs the Commission to expend as much as \$2 million for upgrading and modernizing equipment at the Commission's electronic emissions test laboratory in Laurel, Maryland.

Section 3. Commercial radio operator examinations

Section 3 amends Section 4(f) of the Communications Act of 1934 to permit the Commission to delegate the administration of the commercial radio operator examinations to qualified persons. The Commission may prescribe regulations to select, oversee, sanction, and dismiss persons authorized to administer the examinations.

Section 4. Travel reimbursement program

Section 3 amends Section 4(g)(2)(D) of the Communications Act of 1934 to extend a provision of the Act that permits the Commission to accept reimbursement from sponsors of conferences and meetings for necessary expenses incurred by Commission officials through FY 1991.

Section 5. Communications support from older Americans

Section 6(a) amends Section 6(a) of the Communications Act of 1934 to allow the Commission to extend a two year test program which authorizes the Commission to negotiate the hiring of older Americans in providing technical and administrative assistance for projects related to the implementation, promotion, or enforcement of the Commission's regulations.

Section 6. Tariff notice period

Section 6 amends Section 203(b) of the Communications Act of 1934 to grant the Commission and the public an additional thirty days to review tariff filings.

The Committee intends that the 120-day tariff review period be limited to annual access tariff filings.

Section 7. Amateur radio service reciprocal permits

Section 7 amends Section 301(l)(3) of the Communications Act of 1934 to permit the Commission to conform to a multilateral convention which provides procedures for obtaining reciprocal operating privileges by amateurs in any of the signatory countries.

Section 8. Willful or malicious interference

Section 8 amends Part I of title II of the Communications Act of 1934 to prohibit the willful or malicious interference with radio communications, including government communications.

Section 9. Consideration of impact on commerce in public interest determinations

Section 9 amends Section 4 of the Communications Act of 1934 to make explicit the Commission's authority to assess the impact of its public interest determinations regarding telecommunications services on the foreign commerce of the United States.

This provision is not meant to create new Commission authority or to limit the Commission's existing authority under the Communications Act's public interest standard. The Committee adopts this provision to clarify and make explicit the Commission's existing authority to assess the effect of each of its decisions or determinations on foreign commerce of the United States.

Commission decisions or determinations with respect to certification of equipment are exempted from this provision. By "certification of equipment", the Committee intends that equipment authorization procedures, such as type approval, type acceptance, certification, notification and registration, and equipment verification procedures, are excluded from the scope of this subsection.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 3265, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

COMMUNICATIONS ACT OF 1934

TITLE I—GENERAL PROVISIONS

* * * * *

PROVISIONS RELATING TO THE COMMISSION

SEC. 4. (a) * * *

* * * * *

(f)(1) * * *

* * * * *

(5)(A) The Commission, for purposes of preparing and administering any examination for a commercial radio operator license or endorsement, may accept and employ the services of persons that the Commission determines to be qualified. Any person so employed may not receive compensation for such services, but may recover from examinees such fees as the Commission permits, considering such factors as public service and cost estimates submitted by such person.

(B) The Commission may prescribe regulations to select, oversee, sanction, and dismiss any person authorized under this paragraph to be employed by the Commission.

(C) Any person who provides services under this paragraph or who provides goods in connection with such services shall not, by reason of having provided such service or goods, be considered a Federal or special government employee.

(g)(1) * * *

(2)(A) If—

(i) the necessary expenses specified in the last sentence of paragraph (1) have been incurred for the purpose of enabling commissioners or employees of the Commission to attend and participate in any convention, conference, or meeting;

(ii) such attendance and participation are in furtherance of the functions of the Commission; and

(iii) such attendance and participation are requested by the person sponsoring such convention, conference, or meeting; then the Commission shall have authority to accept direct reimbursement from such sponsor from such necessary expenses.

(B) The total amount of unreimbursed expenditures made by the Commission for travel for any fiscal year, together with the total amount of reimbursements which the Commission accepts under subparagraph (A) for such fiscal year, shall not exceed the level of travel expenses appropriated to the Commission for such fiscal year.

(C) The Commission shall submit to the appropriate committees of the Congress, and publish in the Federal Register, quarterly reports specifying reimbursements which the Commission has accepted under this paragraph.

(D) The provisions of this paragraph shall cease to have any force or effect at the end of the fiscal year [1989.] 1991.

(E) Funds which are received by the Commission as reimbursements under the provisions of this paragraph after the close of a fiscal year shall remain available for obligations.

(p) In making any finding with respect to the public interest as required for purposes of any decision or determination under this Act (other than a decision or determination with respect to the certification of equipment), the Commission may, in its discretion, assess the impact of that decision or determination on the foreign commerce of the United States.

* * * * *

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 6. There are authorized to be appropriated for the administration of this Act by the Commission \$107,250,000 for fiscal year 1988 and \$109,250,000 for fiscal year 1989, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1988 and 1989.]

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. (a) *There are authorized to be appropriated for the administration of this Act by the Commission \$109,831,000 for fiscal year 1990 and \$121,478,000 for fiscal year 1991, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1990 and 1991.*

(b) In addition to the amounts authorized to be appropriated under this section, not more than 4 percent of the amount of any fees or other charges payable to the United States which are collected by the Commission are authorized to be made available to the Commission until expended to defray the fully distributed costs of such fees collection.

(c) *Of the amounts appropriated pursuant to subsection (a) for fiscal year 1991, such sums as may be necessary not to exceed \$2,000,000 shall be expended for upgrading and modernizing equipment at the Commission's electronic emissions test laboratory located in Laurel, Maryland.*

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TITLE II—COMMON CARRIERS

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SCHEDULES OF CHARGES

SEC. 203. (a) * * *

(b)(1) No change shall be made in the charges, classifications, regulations, or practices which have been so filed and published except after **[ninety days]** *120 days'* notice to the Commission and to the public, which shall be published in such form and contain such information as the Commission may by regulations prescribe.

(2) The Commission may, in its discretion and for good cause shown, modify any requirement made by or under the authority of this section either in particular instances or by general order applicable to special circumstances or conditions except that the Commission may not require the notice period specified in paragraph (1) to be more than **[ninety days]** *120 days*.

TITLE III—PROVISIONS RELATING TO RADIO

PART I—GENERAL PROVISIONS

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GENERAL POWERS OF COMMISSION

SEC. 303. Except as otherwise provided in this Act, the Commission from time to time, as public convenience, interest, or necessity requires shall—

(a) * * *

* * * * *

(b)(1) * * *

* * * * *

(3) In addition to amateur operator licenses which the Commission may issue to aliens pursuant to paragraph (2) of this subsection, and notwithstanding section 301 of this Act and paragraph (1) of this subsection, the Commission may issue authorizations, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a **[bilateral agreement between the United States and the alien's government]** *multilateral or bilateral agreement, to which the United States and the alien's government are parties*, for such operation on a reciprocal basis by United States amateur radio operators. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any re-

quest or application for or modification, suspension or cancellation of any such authorization.

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LIMITATION ON HOLDING AND TRANSFER OF LICENSES

SEC. 310. (a) * * *

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(c) In addition to amateur station licenses which the Commission may issue to aliens pursuant to this Act, the Commission may issue authorizations, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a [bilateral agreement between the United States and the alien's government] *multilateral or bilateral agreement, to which the United States and the alien's government are parties*, for such operation on a reciprocal basis by United States amateur radio operators. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization.¹⁰¹

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WILLFUL OR MALICIOUS INTERFERENCE

SEC. 333. No person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this Act or operated by the United States Government.

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SECTION 6 OF THE FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION ACT OF 1988

OLDER AMERICANS PROGRAM

SEC. 6. (a) During fiscal years 1988 [and 1989,], 1989, 1990, and 1991, the Federal Communications Commission is authorized to make grants to, or enter into cooperative agreements with, private nonprofit organizations to utilize the talents of older Americans in programs authorized by other provisions of law administered by the Commission (and consistent with such provisions of law) in providing technical and administrative assistance for projects related to the implementation, promotion, or enforcement of the regulations of the Commission.

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ADDITIONAL VIEWS OF BILL RICHARDSON

In adopting subsection (4-p), the Committee was particularly concerned about situations in which closed-market policies of foreign governments unreasonably discriminate against, or deny access and fair and equitable treatment to U.S. telecommunications services (including television programming) and facilities providers.

Unfortunately, the market protecting policies and practices of foreign government do exist. Those policies, while liberalizing, are still less open than the U.S. market. This is evidenced by the recent adoption by the European Community of a protectionist measure which blatantly discriminates against U.S. and other non-EC television programs. While this is the most recent example of foreign protectionism, it is certainly not an isolated instance.

For example, some U.S. private international satellite companies have reported great difficulty in securing operating agreements with foreign entities that are actively involved in U.S. telecommunications. Excessive delays in obtaining licenses and equipment type approvals have in some countries acted to limit and block access. Another technique is the reservation of the radio spectrum for national suppliers.

Subsection (P) makes explicit the Commission's existing authority to take into consideration the relative openness of foreign markets when making any determinations on applications and other requests filed by foreign entities, excluding equipment authorization proceedings.

BILL RICHARDSON.

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