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SENATOR PRESSLER'S BOLD PROPOSAL FOR SPECTRUM FREEDOM

INTRODUCTION

With passage of the historic Telecommunications Act of 1996 earlier this year, many in Congress, the media, and the public have been led to believe that the long-awaited task of communications deregulation has been completed. Nothing could be further from the truth.

While the new Telecommunications Act takes some important steps toward market liberalization, they are in many cases tiny steps. Furthermore, the Federal Communications Commission (FCC), which is charged with the task of implementing the Act, already has shown itself eager to exploit the vague rhetoric and loopholes found in many sections of the Act by expanding rather than rolling back regulations. Worse still, some of the recent FCC proceedings and rule-makings undertaken supposedly to comply with this legislation are so complex, notes investment analyst Susan A. Lynner of Prudential Securities, that, "If the devil is in the details, then we must be in hell."[1] In many ways, these problems can be traced to poorly worded or open-ended sections and clauses found in the original legislative language of the Telecommunications Act.

But the more serious problem with the Telecommunications Act is not what it includes, but what it does not include. The statute almost completely ignores the segment of the communications marketplace that is experiencing the most innovation and entrepreneurship—the wireless sector. The legislation focuses primarily on wireline issues (local telephony and cable in particular). Wireless industries that currently use the electromagnetic wireless spectrum[2] (such as cellular or broadcasting), as well as other businesses that hope to enter the wireless market, do not receive comparable attention.

1 Susan A. Lynner, "FCC Opts for Federal Framework Over State Discretion in Local Competition Proposal," *Telecommunications Regulatory Update*, April 25, 1996, p. 3.

2 For a comprehensive discussion of the electromagnetic wireless spectrum, its uses, and regulation, see Adam D. Thierer,

Realizing this, Senator Larry Pressler (R-SD) has circulated a staff discussion draft, "The Electromagnetic Spectrum Management Policy Reform and Privatization Act," as the prelude to possible legislation. Senator Pressler is Chairman of the Senate Commerce Committee. The proposal is sweeping in its scope and, if implemented, would force a complete overhaul of wireless spectrum regulatory policy. Among its beneficial steps, Senator Pressler's proposal:

- ✔ **Provides spectrum flexibility.** The proposal would end seven decades of spectrum mismanagement and industrial policy by allowing spectrum holders to use their spectrum for whatever purpose they wish. No longer would the FCC be allowed to "zone" the spectrum in discrete parcels and place restrictions on its use.
- ✔ **Expands and makes permanent the auction and allocation process.** The FCC's extremely successful experiment with spectrum auctions would be expanded and made permanent for new uses of spectrum.
- ✔ **Creates a second-best broadcaster spectrum auction solution.** Although the Pressler proposal backs away from the contentious issue of auctioning off licenses already set to be given away to the broadcast television industry, it does create a favorable alternative. Broadcasters would be forced to pay a deposit for receipt of new digital licenses, and this deposit would be fully refundable when they turn in their old analog license after a 15-year transition period. Alternatively, if broadcasters did not wish to pay the deposit, they could opt to keep their current analog license forever and forgo the opportunity to obtain a new digital license. If they chose this second option, the leftover spectrum would be auctioned to other users.
- ✔ **Prohibits FCC spectrum standard-setting or construction mandates.** The Pressler plan wisely mandates that the FCC could not engage in technical standard-setting because the staggering pace of technological change in this industry will likely make any standard irrelevant in the near future. Furthermore, the bill would prohibit the FCC from micromanaging construction specifications and timetables of new spectrum networks.
- ✔ **Demands release of more publicly held spectrum and more efficient public use of spectrum:** In an important step, the Pressler plan demands that federal agencies reallocate large portions of inefficiently used government spectrum to private use. Furthermore, the spectrum that remains in government hands would have to be used more efficiently.
- ✔ **Transfers all spectrum responsibilities from the NTIA to the FCC and block grants public safety spectrum to the states.** The proposal also would eliminate needless spectrum management duplication by transferring all spectrum authority currently held by the National Telecommunications and Information Administration (NTIA) to the FCC. In addition, the bill would block grant public safety spectrum back to the states so they can control locally all spectrum needed for police, fire, and other safety uses.

"A Policy Maker's Guide to Deregulating Telecommunications Part 6: A Free-Market Future for Spectrum," Heritage Foundation *Talking Points* No. 11, March 19, 1996.

✔ **Requires a spectrum report.** Finally, the plan would mandate a review of the effects of the bill two years after implementation and require the FCC to suggest further deregulatory initiatives that can be undertaken.

The Pressler plan, if enacted into law, would represent the most important privatization effort undertaken by the federal government in recent years. This would spur job and export creation in this highly innovative American industry. Failure to implement these reforms, on the other hand, would mean that Congress's efforts to revolutionize the communications industry would remain limited and incomplete.

WHY REFORM IS NEEDED

Senator Pressler's spectrum reform and privatization plan is vital for several reasons. The current system of spectrum management is roundly criticized because:

✗ **It is resistant to change and innovation.** Currently, federal spectrum regulators are allowed to decide who may use spectrum, where they may use it, how long they may use it, and most important, to what use they may put their spectrum. This is often referred to as "spectrum zoning," to borrow a real estate land management metaphor. Not surprisingly, this zoning leads to massive misallocations and misuses of spectrum. Once a certain technology is locked into place, it can take years before another use of that spectrum is allowed; thus, both innovation and entrepreneurial activity are discouraged by this technological industrial policy.

✗ **It imposes large costs of delay.** Not surprisingly, this resistance to change and innovation results in enormous costs. These costs can be measured either in terms of the number of new products offered to consumers or in terms of the overall loss of economic activity to the economy. The costs are high. For example, even though spectrum was reallocated in 1970 to make room for cellular services, the first experimental license was not granted by the FCC until 1977, and other commercial licenses were not granted until the early 1980s. Economists Jeffrey H. Rohlfs, Charles L. Jackson, and Tracey E. Kelly have argued that "had the FCC proceeded directly to licensing from its 1970 allocation decision, cellular licenses could have been granted as early as 1972 and systems could have become operational in 1973, a decade earlier than they were in reality."[3] As a result, they estimate, this regulatory delay cost the U.S. economy $86 billion, or 2 percent of gross national product (GNP) in 1983, when cellular licensing finally began.[4]

✗ **It is open to special interest influence and discourages competition.** With such a tight hold on the spectrum reins, regulators can steer the industry in almost any direction they desire. Worse yet, because communications regulation

3 Jeffrey H. Rohlfs, Charles L. Jackson, and Tracey E. Kelly, *Estimate of the Loss to the United States Caused by the FCC's Delay in Licensing Cellular Telecommunications* (Washington, D.C.: National Economic Research Associates, Inc., November 8, 1991), p. 4.

4 *Ibid.*, p. 1.

often has resembled a "good old boy" network—with favored industry groups working hand-in-hand with regulators to craft policy—competition has been discouraged.

For example, for many years the broadcast industry worked with the FCC to restrict the rise of cable television, since it posed an obvious threat to the unchallenged hegemony of the broadcast industry. As telecommunications scholars Michael K. Kellogg, John Thorne, and Peter W. Huber note, "For many years the FCC's principal objective was to suppress the cable industry by preventing direct competition between cable and over-the-air broadcasting. It did so quite successfully...."[5] This regulatory setback delayed the onset of video competition for over a decade.[6] Despite no clear explanation of how this served the public, the FCC continued to implement these anti-competitive policies, even though it had received no explicit grant of congressional authority to do so.[7]

✗ **There is a lack of respect for First Amendment rights.** Finally, the current system of spectrum management provides regulators with the ability to influence directly the content and composition of specific types of programming, and to threaten firms with discontinuation of the right to operate if they fail to comply with regulatory edicts. For example, the FCC currently uses the Children's Television Act of 1990 as a tool for blatant regulatory extortion. The FCC has gone beyond the admittedly vague statutory language of the Act to demand specific quantitative minimum numbers of hours of children's programming in exchange for allowing business other freedoms.[8] For example, after CBS and Westinghouse recently announced their intention to merge, FCC regulators (who have the power to block such alliances) forced the companies to promise that certain quantitative programming requirements would be honored as a condition of merger approval. Several other firms have faced similar threats from the FCC as a condition of normal business operation.

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5 Michael K. Kellogg, John Thorne, and Peter W. Huber, *Federal Telecommunications Law* (Boston, Mass.: Little Brown & Co., 1992), p. 689.

6 See Jonathan W. Emord, *Freedom, Technology, and the First Amendment* (San Francisco, Cal.: Pacific Research Institute for Public Policy, 1991) pp. 252-254.

7 See Thomas W. Hazlett, "Station Brakes: The Government's Campaign Against Cable Television," *Reason*, February 1995, pp. 41-47. Hazlett notes that when cable television (or "CATV" as it was known then) was developing between 1959 and 1972, "Cable television was then officially judged a menace to society, and the [FCC] had launched a regulatory jihad against it. Like all holy wars, this offensive was undertaken in the 'public interest'." Hazlett dramatically illustrates the FCC's protectionist policies in action by quoting from a 1966 Commission report on cable: "We must thoroughly examine the question of CATV entry into the major markets, and authorize such entry only upon a hearing record giving reasonable assurance that the consequences of such entry will not thwart the achievement of Congressional goals. We cannot sit back and let CATV move signals about as it wishes...." Quoted in, *ibid.*, p. 42.

8 For more information, see Adam D. Thierer, "Who Will Mind the Children? The Regulation of Children's Programming in the Information Age," in *Speaking Freely: The Public Interest in Unfettered Speech* (Washington, D.C.: The Media Institute, 1995), pp. 47-66.

Even though such regulatory blackmail would represent a clear First Amendment violation if applied in the print realm (for example to newspapers or magazines), it is considered normal operating procedure in the realm of electronic communication (radio or television broadcasters).

WHAT THE PRESSLER PLAN WOULD DO

Fortunately, the Pressler plan would correct most of these flaws within the current system. Specifically, the proposal:

✔ **Provides spectrum flexibility.**

The Pressler proposal would end seven decades of misguided and inefficient spectrum management, allowing spectrum users to use their licenses to provide any service in any way they desire as long as it does not interfere with another spectrum user or violate any U.S. treaty obligations with other nations regarding international spectrum use. It also would allow spectrum users to transfer their flexible spectrum freely to others on the open market.

This would mean the death of federal spectrum industrial policies because it would prohibit any further "zoning" of spectrum. This could encourage a "spectrum renaissance," as many entrepreneurial ideas that could not be acted upon in the past due to spectrum operating restrictions could now be implemented. Countless innovations and new job opportunities would spring from a wireless marketplace freed from its regulatory shackles.

✔ **Expands and makes permanent the auction and allocation process.**

The Pressler plan would expand and make permanent the extraordinarily successful system of spectrum auctioning that Congress originally authorized in 1993. Tens of billions of dollars have been generated for the U.S. Treasury and an enormous amount of innovation already has taken place, thanks to the auctioning process. In fact, an entirely new industry, the personal communications service sector (PCS), a more advanced system of wireless cellular communication, has been created as a result of the auction process.

Unfortunately, Congress limited the applicability and time of auctions in 1993. The Pressler proposal would mandate that only auctions be used in the future and any potential "mutually exclusive use" of the spectrum (when two or more parties vie for the same spectrum allocation) must be thrown open to competitive bidding at an auction. There would be four notable exemptions, however, to this general rule.

First, any spectrum request that is "non-mutually exclusive" (only one party requests the spectrum), obviously would not be open to an auction. This spectrum would simply be given to the party requesting it. The FCC could demand, however, that these users pay user fees to the government to ensure that the spectrum is not hoarded or used inefficiently.

Second, public safety users of spectrum would be exempted. These spectrum uses would include such things as police and fire stations that need to communicate over the radio spectrum, as well as Department of Defense military applications.

Third, spectrum required for global satellite orbital assignments would not be auctioned since this would create international difficulties with other countries that possess different spectrum assignment mechanisms.

Fourth, while it is reasonable to exempt the previous three uses and users from spectrum auctions, the following exemption reflects the raw political power of an industry rather than good policy.

✔ **Creates a second-best broadcaster spectrum auction solution.**

The Pressler proposal would exempt from auction the licenses set to be given away to broadcasters for the provision of digital television. This is unfortunate, because $10 billion to $70 billion worth of spectrum would be lost if such a giveaway to the broadcast industry were allowed to go forward. Worse yet, it would single out one segment of the industry for special treatment in a time when everyone else in the industry is being forced to spend billions bidding at competitive auctions to obtain the additional spectrum they need or desire to conduct business.[9] Political pressure from the broadcast lobby has led many in Congress to abandon any hope of auctioning this spectrum.

Yet the Pressler plan would create a second-best solution, referred to as the "deposit, return and overlay approach." Basically, every television broadcast licensee in America would be able to choose between one of the following two plans:

Option #1: A broadcaster could obtain an additional license directly from the government instead of through a competitive auction, but pay periodic fees or deposits into an escrow account. The fees collected from broadcasters would be based on the value of similar licenses sold in "overlay" auctions. Overlay refers to the technological capability to use certain portions of the spectrum simultaneously for multiple uses. Spectrum adjoining that which would be given to broadcasters therefore could be auctioned off, and its auction price would then be used to determine the amount of the fee or deposit broadcasters would be forced to pay for exclusive use of the additional spectrum.

During the 15-year transition period when broadcasters each would possess two licenses (one analog, one digital), accrued interest on the spectrum deposit account would be placed in the U.S. Treasury to pay for tax cuts or deficit reduction. After the 15-year transition period ended, broadcasters could relinquish their older analog license and receive their deposit back from the government (less the accrued interest that went into the Treasury). For every year the broadcasters held

9 For more information, see Adam D. Thierer and John S. Barry, "How the Telecom Bill Gives Away $70 Billion in Family Tax Relief to the Broadcast Industry," Heritage Foundation *F.Y.I.* No. 84, January 23, 1996; Adam D. Thierer, "The Great Taxpayer Rip-off of 1995," *Regulation*, No. 4 (1995), pp. 21-23; Senator Bob Dole, "Broadcast Spectrum Update: TV Broadcasters Use Scare Tactics and Phony Arguments to Protect Their Corporate Welfare; Dole Challenges Them to Take Their Case to Congressional Hearing," Senate Republican Leader's Office *Press Release*, April 17, 1996; Thomas W. Hazlett, "Free the Airwaves," *The American Enterprise*, Vol. 7, No. 2 (March/April 1996), pp. 71-72; Mark Lewyn, "The Great Airwave Robbery," *Wired*, March 1996, pp. 115-116; William Safire, "Stop the Giveaway," *The New York Times*, January 4, 1996, p. A21; Karen Kerrigan, "Hijacking the Broadcast Spectrum," *The Washington Times*, August 21, 1995, p. A18; "I-Way Detours," *The Wall Street Journal*, December 27, 1995, p. 10.

their old license in excess of the 15-year cutoff date, they would lose 20 percent of their overall deposit; after five years, in other words, they would lose the full value of their deposit if they did not return the old license.

Option #2: Broadcasters could bypass the opportunity to obtain a second license directly from the government and instead opt to keep their older analog license perpetually. No spectrum fees or deposits would be owed by those who chose this option. The spectrum relinquished in this manner would then be auctioned by the FCC. Overall auctions would still take place, however.

This "deposit, return and overlay" approach is a good second-best alternative to straightforward auctions because it would provide a method of compensation for the use of spectrum and, would not allow broadcasters to keep two licenses without incurring serious costs.

✔ **Prohibits FCC spectrum standard-setting or construction mandates.**

The Pressler proposal would explicitly prohibit the FCC from imposing a digital television standard on the American marketplace. It simultaneously would avoid any compatibility or construction requirements that could lead to the adoption of yet another misguided industrial policy.

Unfortunately, the FCC in May *did* adopt a standard for digital television, largely to appease electronics manufacturers that wanted to lock in the technological system they favor. Although the Advanced Television Systems Committee (ATSC) Digital Standard that was adopted allows television broadcasters flexible use of their spectrum, many other potential spectrum users, especially innovative computer companies such as Microsoft Corporation and Apple Computer, objected to the standard for various technological reasons.

Surprisingly, the ATSC standard was adopted despite the warnings of FCC Chairman Reed Hundt, who questioned whether the agency was in the best position to set such a standard during a period of rapid innovation. In a statement, Hundt asked, "Why is it in the public interest to adopt rules freezing the current state of technology? Given the rapid pace of technological change, isn't it inevitable that there will be innovations that even the flexible ATSC Standard cannot accommodate?"[10] Even more important, "Shouldn't we be concerned that erecting a regulatory barrier to the use of new technologies may discourage the research and development necessary for innovation?" Hundt went on to ask, "How is it consistent with the deregulatory spirit of the new Telecommunications Act to codify (directly or indirectly) the 200-plus pages of technical details that constitute the ATSC Standard?"[11]

There are no easy or good answers to Chairman Hundt's questions because there is no legitimate reason for the FCC to be in the business of technological standard-setting in the first place. The FCC has a long and checkered history of experience with television standards. As a Progress and Freedom Foundation telecommunications

10 "Separate Statement of Chairman Reed E. Hundt," in *Advanced Television Systems and Their Impact Upon Existing Television Broadcast Service*, Fifth Further Notice of Proposed Rule Making, MM Docket No. 87-268, May 1996, p. 2.

11 *Ibid.*

working group report notes, "The modern television was exhibited by RCA in 1939, but the FCC took years to adopt initial standards. The FCC then froze all applications for TV licenses until 1952. In the year after the freeze was ended, the number of stations tripled. However, a 1952 FCC decision deliberately limited the number of viable stations per market, and impeded the creation of additional TV networks, at enormous costs to the American viewing public."[12] With this history and a healthy respect for the pace of technological change in mind, the Pressler plan would prohibit standard-setting at the FCC.

✔ **Demands release of more publicly held spectrum and more efficient public use of spectrum.**

The Pressler proposal would mandate that, beginning next year, 25 percent of the spectrum the federal government currently owns exclusively or shares with the private sector below a certain frequency (5 GHz) shall be re-allocated for private sector auctions. Beyond this 25 percent of publicly held spectrum found under 5 GHz, the Pressler plan would require that the President appoint a seven-member "Advisory Committee on Withdrawal" to determine the amount of additional public spectrum that could be transferred to the private sector over a ten-year period.

More important, the Pressler plan would initiate a financial incentive program to encourage government spectrum users to surrender portions of their spectrum voluntarily for private auctions. For example, if the Department of Transportation or Department of Defense realized they were stockpiling large portions of spectrum that were not being utilized, under the Pressler proposal they could turn in the spectrum for private auction and then receive a cut of the auction proceeds (which could be used for employee bonuses). This would be an important incentive for federal agencies that are hoarding spectrum inefficiently to transfer that spectrum to more efficient and profitable uses and users.

The Pressler proposal also would require that, to the maximum extent possible, federal spectrum users rely on the private sector to supply them with radio communications equipment. Competitive bidding also would be required for all new federal government procurement of radio communications systems. Finally, the proposal would mandate that federal agencies work together with private sector firms to utilize more advanced and efficient digital services that would then open up more spectrum for use. Once a government agency and a private sector firm had installed the new digital technologies and created new spectrum capacity, the agency and the firm could divide the spectrum for other uses. The President would have the ability, however, to veto any FCC action related to public spectrum use that was deemed harmful to national security or public safety.

The Pressler plan also would place public spectrum users on equal footing with private users in terms of spectrum flexibility. Government spectrum users would be able to transfer their spectrum to any other public or private entity and receive compensation.

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12 Progress and Freedom Foundation, *The Telecom Revolution: An American Opportunity*, May 1995, pp. 25-26.

In addition, the plan would likely raise significant revenues for deficit reduction or taxpayer relief.

✔ **Transfers all spectrum responsibilities from the NTIA to the FCC and block grants public safety spectrum to the states.**

The Pressler plan would end needless duplication of spectrum management responsibilities by consolidating all authority within the FCC. Currently, the National Telecommunications and Information Administration (NTIA) manages the publicly held spectrum, while the FCC manages all private spectrum. Upon implementation of the plan, all NTIA functions would be transferred to the FCC, and the NTIA, now part of the Department of Commerce, could be closed down.

The Pressler proposal also would "block grant" authority over public safety spectrum back to the states. In essence, those portions of the spectrum required by state and local public safety users (police and fire stations) would be managed by the states. Any interference issues that arose would be adjudicated by the FCC.

✔ **Requires a spectrum report to monitor progress.**

The Pressler proposal would require that the FCC prepare a spectrum report summarizing the progress and results of this deregulatory effort. This would include both a cost-benefit analysis of the measure and additional legislative recommendations from the FCC to further the process of spectrum reform.

How the Pressler Plan Could Be Improved

Even though the Pressler discussion draft marks a significant and beneficial step in the right direction, it could be improved. Additional reforms that should be undertaken and policy clarifications that are needed include:

✔ **Hold outright, unambiguous auctions for all spectrum uses and users.**

Although the Pressler proposal would create a sensible second-best solution to the broadcast spectrum dilemma, it is still preferable to apply auctions equally to all spectrum uses and users. It simply makes no sense to carve out special exemptions for certain industries while Congress is attempting to craft more pro-competitive, anti-monopolistic telecommunications policies. Many policymakers argue that the special "social compact" the public has with the broadcast industry justifies giving broadcasters special non-auction status, with government furnishing private broadcasters with free licenses in exchange for universal, high-quality informational and entertainment service.

But by almost any measure, broadcasters have not lived up to their end of the bargain. Broadcasters, in fact have served the public poorly, primarily because they have not faced stiff competition for viewer allegiance until recent years. Hence, they have felt little pressure to improve the quality of their programming.

Congress should end this failed social compact with broadcasters and demand that they enter the competitive age of communications on the same basis as all others in the industry. The Pressler plan could be improved markedly by making sure that such uncompetitive favoritism is ended once and for all.

✔ **De-license the entire spectrum.**

While providing complete flexibility in use is an important and long-needed step toward a free market in spectrum, the Pressler plan fails to take the final step needed to ensure that spectrum socialism is ended forever. Congress needs to eliminate all spectrum licensing requirements and provide current license holders full property rights to their spectrum allocation. This would ensure that all bureaucratic spectrum meddling ends and that a truly free market reigns in the wireless realm, as it does in real estate markets where private property rights have worked so well for centuries.

This does not mean anarchy would be or should be allowed to exist in wireless spectrum markets. Government would still have an important role in enforcing property rights in spectrum. For example, interference and trespass issues would still need to be adjudicated and resolved by independent third parties. This does not mean, however, that only the FCC is suited to carry out this task. In fact, enforcing property rights in spectrum should be easier than enforcing them in land since fewer "externality" concerns exist. For example, while river and air pollution present special problems in the enforcement of land property rights, no comparable externalities exist in the wireless spectrum. Private spectrum coordination organizations (which already exist), the courts, or a federal administrative body much smaller than the FCC could carry out any straightforward dispute resolution concerns that remain.

✔ **End "public interest standard" regulation and guarantee equal First Amendment protections for all media, whether print or electronic.**

At the heart of everything that is wrong with modern communications law lies the "public interest standard." This standard, which has governed communications policy at the FCC for almost seven decades, has never been defined. In effect, therefore, is a non-standard; it has no fixed meaning. Its vagueness has been used by federal regulators to destroy competition, to threaten the livelihood of existing businesses, and, most important, evade First Amendment restrictions—all in the name of protecting the public.

The Pressler proposal, like the Telecommunications Act which preceded it, would do nothing to define this open-ended regulatory standard or minimize its uncompetitive effect on the wireless marketplace. Bureaucrats would continue to be able to diminish competitive opportunities and run roughshod over the First Amendment rights of spectrum users. This makes increasingly less sense as wireless electronic technologies (which are accorded only secondary First Amendment protections) subsume the more traditional print media (which are accorded strict First Amendment rights). If Congress does not define this standard clearly, the FCC conceivably could decide to regulate the content of *The New York Times* and *The Wall Street Journal* merely because these and other newspapers and magazines are delivered over an electronic medium the agency is able to regulate under the public interest standard. Congress would find it difficult to explain to the public (not to mention the editors of these private and traditionally unregulated newspapers) just why regulation is needed merely because the public receives these dailies over computer screens instead of on paper.

In short, the public interest standard may serve the interests of regulators and the special interests that benefit from its uncompetitive edicts, but it does not serve the consuming public. It should be clear that policymakers can choose regulation under the public interest standard or they can choose free competition—but they cannot choose both. Cutting the spectrum loose from its 70-year-old regulatory shackles is the best way to serve the public interest.

✔ **End protectionist policies that restrict beneficial foreign investment in spectrum technologies and companies, and combine this with privatization of international satellite organizations.**

Under Section 310(b) of the Communications Act of 1934, foreign companies may not own a radio communications license and may not own more than 20 percent of the shares of a company that holds a radio communications license. This protectionist restriction has outlived its usefulness. While national security concerns may have served as a valid justification for prohibiting foreign investment in the past, this policy no longer makes sense.

Restricting foreign investment in spectrum technologies and firms cuts off the flow of beneficial capital and expertise. Just as free trade in other sectors has benefited the American economy and improved the nation's competitiveness, openness to free trade in communications goods and services will best serve the interests of American firms and consumers.[13]

While an effort was made during committee debate over the Telecommunications Act to include language eliminating or at least curtailing the effect of Section 310(b), such language was not included in the final conference bill. The Pressler proposal could correct this mistake by repealing Section 310(b) and all other telecommunications spectrum protectionism once and for all.

Also, to promote international trade in telecommunications, the Pressler plan could take steps to begin breaking down the global monopolies held by international satellite organizations such as Inmarsat and Intelsat. These organizations are international consortia of various signatory countries that have long held a strong grip over access to international satellite service. Comsat is the U.S. representative to Inmarsat (which provides mobile and maritime satellite services) and Intelsat (which provides global television and telephone services). Now that viable private satellite carriers exist that can provide international communications services more efficiently, these organizations should be privatized and all special privileges they receive should be revoked to encourage a more competitive marketplace.

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13 For more information, see Adam D. Thierer, "A Policy Maker's Guide to Deregulating Telecommunications Part 4: Why Telecommunications Protectionism Should Be Ended," Heritage Foundation *Talking Points*, March 2, 1995.

CONCLUSION

While the Pressler spectrum privatization proposal is not perfect, it represents the boldest and most principled deregulatory initiative in the field of communications to date. In comparison to the initial drafts of the Telecommunications Act, which pre-emptively compromised on key policy issues, Senator Pressler's initial spectrum effort represents near flawless deregulatory legislation.

If Congress fails to pursue this unique spectrum liberalization effort, it will be forgoing the most important privatization opportunity in years—perhaps in this century. Countless new innovations would flow from the creation of a free market in spectrum. This innovation and entrepreneurship would create untold numbers of new job and export opportunities. In short, the Pressler spectrum privatization plan would revolutionize the communications industry and provide a much-needed boost to the American economy.

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