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Assignment Prompt Sheet

Telecommunications Act of 1996

Overview

Act Title: Telecommunications Act of 1996

Congress: 104th Congress (1995-1996)

Session/Sessions: 1-2

Statute No: 110 Stat. 56

Public Law No: 104 PL 104

Eid: 1040104

Gid: 213-026

Bill: [S 652](#)

Sponsor: Sen. [Larry Pressler](#) (R-SD)

House Committees: Commerce; Judiciary

Senate Committees: Commerce, Science, and Transportation

Companion Bill: [HR 1555](#)

Related Bills: S 892; HR 1556; HR 1528; S 470

House Rules: Hres 207; Hres 353

Past Bills: 100 HR 2030; 101 S 1981; 101 S 2800; 102 S 173; 102 HR 1527; 102 HR 5096; 103 HR 3626; 103 HR 3636; 103 S 1822

Introduced Date- Law Date: February 23, 1995-February 8, 1996

House Floor Days: 3

Senate Floor Days: 9

Roll Call Votes: 39 (12 in the House; 27 in the Senate)



(Above): Sen. Larry Pressler (R-SD), the sponsor of the Telecommunication Act of 1996. He is perhaps most well known for being the only member to call the FBI during the ABSCAM scandal.

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Legislative History Comments

The *Telecommunications Act of 1996 (104 PL 104)* is a landmark law in a number of areas. As [CRS \(1998, 1\)](#) notes, it was “the first major rewrite of our nation’s telecommunications policy” since 1934. The measure is responsible for a wide-range of contemporary American telecommunications politics. Perhaps the most controversial aspect of the measure though was Title 3, which allowed for cross-ownership of media entities. Prior to the 1996 act, the FCC had barred cross-ownership. Not surprisingly, many on the left blame the enactment for the rise of media consolidation and increasing the reach of conservative media like Sinclair broadcasting and Clear Channel. For example, [Salon](#), went so far as to claim the deregulation put in place by the Telecommunications Act “threatens to upend our democracy.”

In addition, the Telecommunications Act of 1996 deregulated radio station ownership. Specifically, “it loosened regulations on how many stations a single company could own, and allowed the purchase of multiple stations in a single market, depending on that market's size ([NPR 2019](#)).” Opponents of this provision have argued it “sparked an unprecedented period of ownership consolidation in the industry with significant and adverse effects on musicians and citizens ([DiCola and Thomas 2002](#)).”

Another controversial aspect of the Telecommunications Act was the much-maligned Communications Decency Act of 1996. It was the federal government's first—and I think only—attempt to regulate internet communications. It’s often credited for protecting social media platforms like Twitter, Facebook, YouTube, Reddit, etc. from lawsuits for false and malicious content. For example, a number of folks wanted to sue Twitter for the propagation of the "pizza-gate" conspiracy theory during the 2016 presidential election. Twitter was protected from such lawsuits under section 230 of the CDA (I believe). I provide you folks with a bit more on this in the [Aftermath questions](#).

The Last Week Tonight on Sinclair Broadcasting might be worth a watch on this topic:

- <https://www.youtube.com/watch?v=GvtNyOzGogc>

It doesn’t appear to be that brutal from a process standpoint. There’s a lengthy Senate debate and a great deal of amendments, but use the historical newspapers and CQ Almanac to spotlight the most important ones to focus on. And apparently Barney Frank manages to put off a debate on the House rule that the majority wanted to have at 8pm. That’s worth looking into. [CQ Almanac \(1996\)](#) would be a useful source for process questions.

Commented [AJM1]: “[Cocaine and Rhinestones](#)” is a pretty entertaining history of country music podcast. He made an argument on it that some of the problems with major country music labels stemmed from radio station centralization due to deregulations included in the Telecommunications Act of 1996.

Commented [AJM2]: Another related issue here:

Most technology policy in the U.S. is directed by the Federal Communications Commission (FCC). So I’d recommend taking a look at legislation related that body ([CRS has a nice write-up of it here](#)). If you haven’t watched the Last Week Tonight bits on Net Neutrality (related to this topic), they’re worth a look:

- <https://www.youtube.com/watch?v=fpbOEOrrHyU>
- <https://www.youtube.com/watch?v=92yuuZt7wak>
- <https://www.youtube.com/watch?v=q15y-sqJT0>

The major measure in the area of the FCC is the *Communication Act of 1934 (73 PL 416)* (though this law did amend three earlier laws, *the Radio Act of 1927 (70 PL 632)*; *the Radio Act of 1912* and *the Mann-Elkins Act of 1910*). It established the FCC (albeit in an earlier form). It was amended substantially in 1996, with *Telecommunications Act of 1996 (104 PL 104)*.

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Assignments

For the sections below, you're going to want to answer the questions and write-up the process sections that correspond to your assigned number. Here they are:

- 1.
- 2.
- 3.

Background Questions

#1. What, specifically did this law do? What motivated consideration of it? Lobbying? A scandal? Many supporters of the proposal argued they were seeking to increase competition among media sources. By most contemporary accounts, the law failed in this respect. But what was the theory here? Why did they believe it would increase competition?

#2. The Communications Decency Act sought to bar obscene, indecent and harassing communication on the internet. How did it get into this bill? At the time, politicians were worried about children being able to access illicit material. Was there a concern it would be altered by subsequent Court rulings? What about section 230? It provides: "No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider." This was a controversial provision that was eventually included (after some negotiations) as an effort to encourage internet service providers to clean up obscene language. A previous court case had essentially made it so that attempting to censor any content on a platform by the ISP would make the ISP liable for all content.

#3. Discuss the political context this bill was considered in. Who controlled the House? The Senate? By how many? Who was President? Was this part of the President's agenda? What other pieces of legislation were being considered/passed in this Congress? The Stathis (2014) piece might worth a citation here. An earlier attempt, considered in 1994, failed. Why? How did that law differ from the enacted measure? [CQ \(1994\)](#) might be worth a link on that point.

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Process Sections

Please write-up the sections that correspond to your number.

#1. *Senate Consideration of S 652 (June 7-15, 1995)*

See Voteview for passage here:

- <https://voteview.com/rollcall/RS1040268>

#2. *House Consideration of HR 1555 (August 4, 1995)*

Weird fight over the rule here. CQ (1996) notes: “Democrats ultimately forced the debate over the Bliley proposal and other amendments to be carried out in the light of day. Led by the party's top parliamentary tactician, Barney Frank of Massachusetts, they used a combination of delaying tactics and threats to move the debate on Aug. 4 from 1 a.m. to 8 a.m.”

Debate over the structured rule (it's called modified-closed during debate, because it actually predates the term structured) is worth reading.

Bielenson (D-CA) leads the opposition to it (though the rule does attract Democratic support). It sounds like Solomon and Rules Committee Republicans feel like Bielenson backed out of a deal. Here's Bielenson on it:

“Quite simply, we ought not to be debating this rule and this bill tonight. There are many more good reasons to put this legislation over until our return in September than there are for taking it up now. Debating landmark legislation, which completely rewrites our existing communications laws, in the dead of night, squeezed carefully between major appropriations bills that should have first priority, is outrageous on its face...Mr. Speaker, perhaps the most troubling part of the bill is its treatment of media ownership, and its promotion of mergers and concentration of power. The bill would remove all limits on the number of radio stations a single company could own, and would raise the ceiling on the number of television households a single broadcaster is allowed to serve (*Congressional Record*, 104th Congress, August 4, 1995, H8272).”

And Rep. Gerald Solomon (R-NY) in response:

“Now the gentleman knows we are going to be here until 6 o'clock in the morning tomorrow night and into Friday, and my colleague and other members have asked me from the gentleman's side of the aisle to tighten things down, let us take care of the major amendments. We negotiated with the majority, we negotiated with the gentleman from Michigan [Mr. Dingell], we negotiated with the gentleman's Democratic leadership. Everyone was happy, and all of a sudden we come on this floor here now and nobody is happy. Let us stick to our points. If we make a deal upstairs in the Rules Committee, let us live by it (*Congressional Record*, 104th Congress, August 4, 1995, H8273).”

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Rule passes 255-156 with a bizarre coalition. See Voteview here:

- <https://voteview.com/rollcall/RH1040602>

#2. House Consideration of S 652 (October 12, 1995)

This appears really minor. I'm not sure why this vote occurs a month later. It could be debate was delayed on 8/4 to the August recess and this motion simply wasn't made before adjournment.

#3. House Consideration of the Conference Report on S 652 (February 1, 1996)

Considered under Hres 353 in the House:

- <https://voteview.com/rollcall/RH1040890>

Further conflict over the rule in the House on this. Rep. Barney Frank (D-MA) quote here: "Mr. Speaker, I urge defeat of the rule. One, the need to dispense with the normal procedures is another example of rewarding one's own incompetence (*Congressional Record*, 104th Congress, February 1, 1996, H1150)."

Conference reports passed with larger majorities than initial passage, suggesting some compromise was cut:

- <https://voteview.com/rollcall/RH1040891>

#3. Senate Consideration of the Conference Report on S 652 (February 1, 1996)

- <https://voteview.com/rollcall/RS1040621>

Commented [AJM3]: How did the bills differ? Major disagreements? Did the President step in?

Member Spotlight

Choose one of the following for your member spotlight:

#1. Rep. Tom Bliley (R-VA); Rep. Anthony Beilenson (D-CA); Senator Fritz Hollings (D-SC); Rep. Ed Markey (D-MA); Rep. Ron Wyden (D-OR)

Commented [AJM4]: Obituary:

<https://www.nytimes.com/2017/03/10/us/politics/anthony-beilenson-dead-california-congressman.html>

#2. Senator Larry Pressler (R-SD); Senator Bob Dole (R-KS); House Speaker Newt Gingrich (R-GA); Rep. John Dingell (D-MI); Rep. Christopher Cox (R-CA)

Commented [AJM5]: Perhaps most well known for being the only member to call the FBI during the ABSCAM scandal. This scandal would later be dramatized in the 2013 movie "American Hustle."

#3. Sen. Trent Lott (R-MS); Rep. John Linder (R-GA); Rep. Barney Frank (D-MA); Rep. Christopher Shays (R-MA); Rep. John Conyers (D-MI)

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Aftermath

1. What was the media's reaction to this bill after it was passed? Was it covered positively? What has the scholarly reaction been to it since? Many have argued it did not, in fact, increase competition amongst media outlets and instead led to further centralization. Why? Has this act benefitted one specific ideology over another?

2. How has the Communications Decency Act portion of the law evolved? I believe much of it was struck down as unconstitutional by the Courts (see e.g. *Reno v. the ACLU*). However, one of the provisions that was not struck down was section 230. And despite its intent, subsequent court rulings have interpreted the statute as providing immunity to ISPs from lawsuits for any content on their platforms (see e.g. *Zeran v. America Online, Inc.*; *Backpage.com, LLC v. McKenna*).

The measure's primary sponsors, Reps. Chris Cox (R-CA) and Ron Wyden (D-OR), have since been critical of the section in recent years (I believe). However, because other nations lack this legal protection, its existence is thought to play a key role in why so many ISPs are located in the U.S. What do scholars think about it? Contemporary media? There are a number of links in the "Newspaper Pieces" section below that might be helpful on this topic.

3. Broadly speaking, how has U.S. telecommunication law changed since this measure was enacted? Was it subjected to a large number of court challenges? Why is the law relevant today? Do scholars advocate any additional changes?

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Suggested Sources

Scholarly Articles:

Martin, Gregory J., and Joshua McCrain. "Local news and national politics." *American Political Science Review* 113.2 (2019): 372-384.

Ho, Daniel E., and Kevin M. Quinn. "Viewpoint diversity and media consolidation: An empirical study." *Stan. L. Rev.* 61 (2008): 781. <https://www.stanfordlawreview.org/print/article/viewpoint-diversity-and-media-consolidation-an-empirical-study/>

Champlin, Dell, and Janet Knoedler. "Operating in the public interest or in pursuit of private profits? News in the age of media consolidation." *Journal of Economic Issues* 36.2 (2002): 459-468.

Dickerson, Nicholas P. "What Makes the Internet so Special and Why, Where, How, and By Whom Should Its Content Be Regulated?" *Houston Law Review*, vol. 46, no. 1, 28 Mar. 2009

Shelanski, Howard. 1999. *A Comment on Competition and Controversy in Local Telecommunications*, 50 *Hastings L.J.* 1617.

Nesson, Charles, and David Marglin. "Day the Internet Met the First Amendment: Time and the Communications Decency Act." *Harv. JL & Tech.* 10 (1996): 113.

Cannon, Robert. "The Legislative History of Senator Exon's Communications Decency Act: Regulating Barbarians on the Information Superhighway." *Fed. Comm. LJ* 49 (1996): 51.

Aufderheide, Pat. "The 1996 telecommunications act: Ten years later." *Fed. Comm. LJ* 58 (2006): 407.

Einstein, Mara. *Media diversity: Economics, ownership, and the FCC*. Routledge, 2003.

Atkin, David J., Tuen-Yu Lau, and Carolyn A. Lin. "Still on hold? A retrospective analysis of competitive implications of the Telecommunication Act of 1996, on its 10th year anniversary." *Telecommunications Policy* 30.2 (2006): 80-95.

Lukmire, David. "Can the Courts Tame the Communications Decency Act: The Reverberations of *Zeran v. American Online*." *NYU Ann. Surv. Am. L.* 66 (2010): 371.

Sterling, Christopher H. "Transformation: The 1996 act reshapes radio." *Fed. Comm. LJ* 58 (2006): 593.

Glover, Michael, and Donna Epps. 2000. "Is The Telecommunications Act of 1996 Working?" *Administrative Law Review*, vol. 52 (3), pages 1013–1032, <http://www.jstor.org/stable/40711909>.

Commented [AJM6]: See this summary:

<https://www.washingtonpost.com/news/monkey-cage/wp/2018/04/10/yes-sinclair-broadcast-group-does-cut-local-news-increase-national-news-and-tilt-its-stations-rightward/>

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Drushel, Bruce E. (1998). "The Telecommunications Act of 1996 and Radio Market Structure" in *Journal of Media Economics* (pp. 3-20).

https://www.tandfonline.com/doi/abs/10.1207/s15327736me1103_2

Gilens, Martin, and Craig Hertzman. "Corporate ownership and news bias: Newspaper coverage of the 1996 Telecommunications Act." *The Journal of Politics* 62.2 (2000): 369-386.

Howard, Herbert H. "The 1996 Telecommunications Act and TV station ownership: 1 year later." *Journal of Media Economics* 11.3 (1998): 21-32.

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Newspaper Pieces:

- https://www.salon.com/2018/04/04/we-have-bill-clinton-to-thank-in-part-for-trumps-propaganda-machine_partner/
- <https://www.nytimes.com/2017/08/14/us/politics/how-a-conservative-tv-giant-is-ridding-itself-of-regulation.html>
- <https://www.theguardian.com/commentisfree/2017/nov/24/sinclair-tribune-media-merger-free-speech>
- <https://www.washingtonpost.com/news/monkey-cage/wp/2018/04/10/yes-sinclair-broadcast-group-does-cut-local-news-increase-national-news-and-tilt-its-stations-rightward/>
- <https://blogs.lse.ac.uk/usappblog/2019/10/18/the-fccs-hands-off-approach-to-media-consolidation-means-that-local-news-increasingly-looks-more-like-fox-news/>
- <https://www.nytimes.com/2020/02/04/technology/section-230-lobby.html>
- <https://www.lawfareblog.com/what-should-we-do-about-section-230>
- <https://www.vice.com/en/article/n7vjqm/this-1996-law-was-meant-to-save-radio-instead-it-decimated-popular-black-music>