

THE CONGRESS PROJECT

Assignment Prompt Sheet

Communications Act of 1934

Overview

Act Title: Communications Act of 1934

Congress: 73rd Congress (1933-1934)

Session/Sessions: 2

Statute No: 48 Stat. 1064-1105

Public Law No: 73 PL 416

Eid: 730416

Gid: 221-017

Bill: S 3285

Sponsor: Sen. [Clarence Dill](#) (D-WA)

House Committees: Interstate and Foreign
Commerce

Senate Committees: Interstate Commerce

Companion Bill: HR 8301

Related Bills: S 2660; S 2910

House Rules: Hres 411

Past Bills: 72 HR 7716; 72 S 481; 71 HR 11635

Introduced Date- Law Date: March 28-June 19, 1934

House Floor Days: 2

Senate Floor Days: 3

Roll Call Votes: 1 (0 in the House, 1 in the Senate)

Issues: technology; sop; business reg.; communications

Procedures: open rule; amendment; voice; conference

Last Updated: 11/6/23



(Above) Sen. Clarence Dill (D-WA), the sponsor of the Communications Act of 1934. Dill was also known for going through a very public divorce with his then-wife, Rosalie Gardiner Jones, a leader in the suffrage movement.

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Legislative History Comments

The Communications Act of 1934 (73 PL 416) established the Federal Communications Commission (“FCC”). The FCC is an “independent federal agency with its five members appointed by the President, subject to confirmation by the Senate ([Figliola 2018](#), 1).” The FCC was tasked with regulating “interstate and foreign telegraph, telephone, cable, and radio communications, which were previously the responsibility of the Interstate Commerce Commission and Federal Radio Commission (Stathis 2014, 245).” In doing so, the measure significantly amended three earlier laws: *the Radio Act of 1927 (70 PL 632)*; *the Radio Act of 1912* and *the Mann-Elkins Act of 1910*. It was listed as the 17th most impactful law of the 73rd Congress by Clinton and Lapinski (2006).¹

The Communications Act of 1934 is the most significant U.S. policy in the communications sector. However, the bill was amended substantially in 1996, with *Telecommunications Act of 1996 (104 PL 104)*. The Telecommunications Act of 1996 constituted the “the first major rewrite of our nation’s telecommunications policy ([CRS 1998](#), 1).” Perhaps the most controversial aspect of the 1996 measure 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 (see e.g. Martin and McCrain 2019). For example, [Salon](#), went so far as to claim the deregulation put in place by the Telecommunications Act “threatens to upend our democracy.”

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

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

In terms of process, the Communications Act of 1934 is fairly straight forward. A comparable measure was pocket vetoed by President Herbert Hoover (R-CA) at the end of the 72nd Congress, which likely led to less substantive debate on the enacted measure. It passed both chambers via voice vote. The conference report was also enacted by both chambers by voice vote as well. It was considered in the House under an open rule. There was some disagreement, however, and one recorded vote on an amendment in the Senate. That amendment, which sought to nullify existing radio licenses and reserve one-fourth of them for non-profit and educational purposes, was defeated [23-42](#).²

Don’t hesitate to e-mail me with questions! The Figliola (2018) CRS report cited above is worth a read for additional background information on this topic.

¹ In terms of production of landmark legislation, the 73rd Congress (1933-1934), far outstrips any other Congress.

² See also “Senate Passes Radio, Wire Control Bill,” *The Washington Post*, May 16, 1934.

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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.

Background Questions

1. Discuss the broader 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.

What does this act actually do? Who was pushing for it? Was it significantly altered during consideration? What were the problems it was trying to rectify?

In this question, detail what the FCC is and how it operates. What is an independent regulatory board? What did the existing ICC look like?

2. What motivated consideration of this legislation in this specific Congress? Was it in response to a specific event? Or was this a slower build over time? What happened in previous congresses regarding this? Had Congress considered comparable legislation? You might want to contextualize this bill by discussing some of the other landmark laws relating to this issue.

What did existing federal policy look like in this specific issue area? Why did reformers feel it needed to be changed?

With this question, address Hoover's pocket veto of a comparable Communications Act update in the preceding Congress (HR 7716). What motivated that decision? How did this bill differ?

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Process Sections

Please write-up the sections that correspond to your number. Feel free to incorporate any notes I might have dumped in the margins. The index for S 3285 is presented below.

S. 3285—To provide for the regulation of interstate and foreign communications by wire or radio, and for other purposes.
Mr. Dill; Committee on Interstate Commerce, 5952.—Reported with amendments (S.Rept. 781), 6898.—Debated, 8768, 8822, 8842.—Amended and passed Senate, 8854.—Referred to House Committee on Interstate and Foreign Commerce, 9204.—Reported with amendment (H.Rept. 1850), 10294.—Made special order (H.Res. 411), 10304–10312.—Debated, 10312–10332.—Amended and passed House, 10332.—House insists upon its amendment and requests conference with Senate, 10332.—Conferees appointed, 10332, 10365.—Senate disagrees to House amendment and agrees to conference, 10365.—Conference report submitted in Senate and agreed to, 10912.—Conference report submitted in House (H.Rept. 1918), 10968.—Agreed to, 10968–10995.—Examined and signed, 11250, 11256.—Presented to the President, 11465.—Approved [Public, No. 416], 12452.

#1. Senate Consideration of S 3285 (May 14-15, 1934)

On May 14, 1934, Sen. Clarence Dill (D-WA), moved that the Senate proceed to consideration of S 3285. This was agreed to by voice vote. However, at the request of the Senate Minority Leader, Sen. Charles McNary (R-OR), debate over the bill was postponed until the following day.

Dill began with a discussion of the contents of the measure. Sen. James Couzens (R-MI) asked Dill if there was “no authority in the bill to permit consolidation of radio, telegraph and telephone companies (*Congressional Record*, 73rd Congress, May 15, 1934, 8822)?” Dill confirmed there was not.

One recorded vote on an amendment during consideration of S 3285. This amendment, co-sponsored by Sen. Robert Wagner (D-NY) and Sen. Henry Hatfield (R-WV), sought to nullify existing radio licenses and reserve one-fourth of them for non-profit and educational purposes. It was defeated [23-42](#).³

After a day of debate and amending, the Senate passed S 3285 by voice vote.

³ See also “Senate Passes Radio, Wire Control Bill,” *The Washington Post*, May 16, 1934.

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#2. House Consideration of S 3285 (June 2, 1934)

On June 2, 1934, Rep. William Bankhead (D-AL), the Rules Committee Chairman, called up Hres 411. Hres 411 provided for consideration of S 3285 under an open rule. There was some opposition to the rule. Rep. Harold McGugin (R-KS) referred to it as “political chicanery” and “a gag rule (*Congressional Record*, 73rd Congress, June 2, 1934, 1034).” Despite this opposition, the previous question motion and the rule were adopted by voice vote after a short discussion.

Debate over the measure touched on a variety of topics. At one point, Rep. Hamilton Fish (R-NY) used his opportunity to speak to lambast the administration’s control over the radio: “I think it is unfortunate that the radio is controlled by the administration or terrorized by the administration to the extent that the policies of the administration literally burn up the radio time day and night (*Congressional Record*, 73rd Congress, June 2, 1934, 10318).”⁴

Later that day, S 3285 passed the House via voice vote.

#1. Senate Consideration of the Conference Report on S 3285 (June 9, 1934)

On June 9, 1934, Dill asked for, and received “unanimous consent” the Senate proceed to consider the conference report on S 3285 (*Congressional Record*, 73rd Congress, June 9, 1934, 10968).” After a brief exchange with Sen. William King (D-UT), the conference report was adopted by voice vote.⁵

#2. House Consideration of the Conference Report on S 3285 (June 9, 1934)

That same day, Rep. Sam Rayburn (D-TX) called up the conference report on S 3285. Immediately afterwards, Rep. Schuyler Bland (D-VA) raised a point of order against the report on the communications bill on the ground that the committee on conference has exceeded its jurisdiction (*Congressional Record*, 73rd Congress, June 9, 1934, 10968).” The Speaker eventually overruled Bland’s point of order and debate on the conference report commenced.⁶

After some debate, the conference report was adopted by a division vote, 58-40.

⁴ For reasons I don’t quite understand, this quote cracked me up.

⁵ Maybe expand on the exchange with King and add a paragraph on the differences between the two chambers bills, but this should be a two paragraph section at most.

⁶ Expand on this, but should be a shorter section.

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Member Spotlight

Choose one of the following for your member spotlight:

#1. Sen. Clarence Dill (D-WA); Sen. Charles McNary (R-OR); Sen. James Couzens (R-MI); Sen. William King (D-UT); Sen. Robert Wagner (D-NY); Sen. Henry Hatfield (R-WV)

#2. Rep. Sam Rayburn (D-TX); Rep. Hamilton Fish (R-NY); Rep. William Bankhead (D-AL); Rep. Harold McGugin (R-KS); Rep. Everett McKinley Dirksen (R-IL); Speaker Henry Rainey (D-IL)⁷

Aftermath Questions

1. How was this act viewed upon passage? What did the newspapers say? How did the final measure differ from the one reformers were pushing?

How has this act been viewed by scholars? Did it achieve its stated goals? Do scholars highlight any major limitations? Are there aspects of the bill that are viewed more favorably than others? Discuss the relevance of this act as it pertains to contemporary policy.

2. How has this law evolved over time? Has it been featured in any major Supreme Court cases? Significantly altered by subsequent legislation?

Feel free to highlight any specific alterations to the law. For example, the “Quiz Show” scandal of the 1950s triggered amendments to the Communications Act in 1960. Why? What happened there?

What about the Telecommunications Act of 1996? What motivated that measure? What impact has it had? Many have argued it has led to a consolidation of media in the United States. Why? (see e.g. Martin and McCrain 2019).

⁷ Dirksen, Rayburn, Bankhead and Fish all go on to have legendary congressional careers.

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Suggested Sources

Scholarly Articles

Paglin, Max D. *A Legislative History of the Communications Act of 1934*. Oxford University Press, New York. 1989.

Shipan, Charles R. *Designing judicial review: Interest groups, Congress, and communications policy*. University of Michigan Press, 2000.

Martin, Gregory J., and Joshua McCrain. "Local news and national politics." *American Political Science Review* 113.2 (2019): 372-384.⁸

McChesney, Robert W. "Franklin Roosevelt, his administration, and the Communications Act of 1934." *American Journalism* 5.4 (1988): 204-229.

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.

Dean III, John W. "Political Broadcasting--The Communications Act of 1934 Reviewed." *Fed. Comm. BJ* 20 (1966): 16.

Mazurkiewicz, Catherine. "22. How the Quiz Show Scandals of the 1950s Transformed American Television." (2018).

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.

Opderbeck, David W. "Does the Communications Act of 1934 contain a hidden Internet kill switch." *Fed. Comm. LJ* 65 (2013): 1.

⁸ 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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Figliola, Patricia Moloney. 2010. "The Federal Communications Commission: Current Structure and Its Role in the Changing Telecommunications Landscape." *Congressional Research Service Report RL32589*. <https://sgp.fas.org/crs/misc/RL32589.pdf>

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-riding-itself-of-regulation.html>
- <https://www.theguardian.com/commentisfree/2017/nov/24/sinclair-tribune-media-merger-free-speech>
- <https://www.nytimes.com/1994/10/03/opinion/1-quiz-show-plays-with-facts-of-tv-scandal-409006.html>
- <https://www.pbs.org/wgbh/americanexperience/features/quizshow-aftermath-quiz-show-scandal/>
- <https://slate.com/technology/2021/03/section-230-reform-legislative-tracker.html>
- <https://slate.com/technology/2017/05/dont-freak-out-about-the-fccs-new-approach-to-net-neutrality.html>
- <https://www.theatlantic.com/technology/archive/2010/08/1934-2010-the-road-to-the-google-verizon-proclamation/61244/>
- <https://www.vox.com/2015/4/20/11561664/reality-check-for-carly-fiorina-on-open-internet-policy>
- <https://www.vox.com/2017/2/8/14500978/telecommunications-act-1996-regulation-update-telecom-policy>
- <https://www.washingtonpost.com/posteverything/wp/2017/05/12/the-trump-administration-gets-the-history-of-internet-regulations-all-wrong/>
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- <https://www.washingtonpost.com/archive/politics/1980/02/01/competition-in-communications/7a8de22a-ed20-4231-94c4-c21499c38d73/>
- <https://www.nytimes.com/2015/03/15/opinion/sunday/more-and-better-telecom-options.html>
- <https://bits.blogs.nytimes.com/2015/03/05/reaction-to-regulation-1934-vs-today/>
- <https://www.npr.org/2015/12/13/459565455/who-paid-for-this-political-ad-an-81-year-old-law-could-force-the-answer>
- <https://www.npr.org/sections/alltechconsidered/2015/02/27/389318714/fcc-votes-along-party-lines-for-net-neutrality>
- <https://www.npr.org/sections/alltechconsidered/2014/01/14/262454310/feds-cant-enforce-net-neutrality-what-this-means-for-you>
- <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/>