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**REAUTHORIZATION OF THE FEDERAL
COMMUNICATIONS COMMISSION**

Y 4. C 73/7: S. HRG. 103-743

Reauthorization of the Federal Comm...

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BEFORE THE

SUBCOMMITTEE ON COMMUNICATIONS

OF THE

**COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION**

UNITED STATES SENATE

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

JULY 29, 1994

Printed for the use of the Committee on Commerce, Science, and Transportation



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(III)

REAUTHORIZATION OF THE FEDERAL COMMUNICATIONS COMMISSION

FRIDAY, JULY 29, 1994

U.S. SENATE,
SUBCOMMITTEE ON COMMUNICATIONS OF THE
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room SR-253 of the Russell Senate Office Building, Hon. Daniel K. Inouye (chairman of the subcommittee) presiding.

Staff members assigned to this hearing: John D. Windhausen, Jr., senior counsel, and Sheryl J. Wilkerson and Kevin M. Joseph, professional staff members; and Regina M. Keeney, minority senior counsel.

OPENING STATEMENT OF SENATOR INOUYE

Senator INOUYE. I wish to welcome Chairman Hundt to his first authorization hearing before this committee. I also want to thank him and his staff for working with the committee in our efforts to update the Communications Act, through Chairman Hollings' bill, S. 1822, the Communications Act of 1994.

This morning's hearing will consider the Federal Communications Commission Authorization Act of 1994, which was introduced yesterday. This bill authorizes the funding for the FCC in the amount of \$163.5 million for fiscal year 1994, and \$198.232 million for fiscal year 1995. The amount authorized for fiscal year 1993 is identical to the amount appropriated for fiscal year 1994. The amount for fiscal year 1995 also reflects the appropriations level approved by the Senate this year, and represents a much-needed increase.

These additional funds will allow the FCC to carry out its new statutory responsibility and keep up with the increasing workload. The bill includes a number of provisions that the FCC has asked the Congress to consider. While I do not necessarily endorse every one of these suggestions, I believe that they are all worthy of consideration. I have thus included these recommendations in the bill in order to initiate a discussion on the merits of these proposals.

Advances in new technologies and the opening of markets to competition puts the FCC in a position of making key policy decisions that fundamentally affect the marketplace. The importance of the FCC and its actions cannot be underestimated, especially in today's dynamic communications industry.

As our society becomes more and more dependent upon our ability to communicate with each other, the decisions of the FCC have

an increasingly important effect on the public interest. The increased levels of funding for fiscal year 1995 will allow the FCC to hire an additional 250 full-time equivalent positions to handle increased workloads resulting from increases in ongoing functions and implementing the PCS auctions and licenses.

Since 1980, the FCC staff has been reduced by over 500 FTE positions, while the FCC's legislated responsibilities have grown. Part of those responsibilities relate to the enforcement of FCC rules. Concern has been raised that the FCC fines on small businesses and individuals in some cases are unrealistic in relation to the alleged infractions.

I am encouraged that the FCC has stepped up its enforcement efforts, but I will be looking into this matter as we move forward on this bill.

In addition, I encourage you to complete the Lower Earth Orbit Satellite proceeding consistent with the timetable outlined in the Senate appropriations report.

Finally, I want to recognize the tremendous job that the new Chairman has done in implementing the 1992 Cable Act, as well as the auction process for PCS.

I want to thank the Chairman for his efforts, and I look forward to his testimony.

May I now call upon my dear friend and counsel, the Senator from Alaska.

Senator STEVENS. I will pass.

Senator INOUE. So, it is now my pleasure to call upon the Chairman, Chairman Hundt.

STATEMENT OF REED E. HUNDT, CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION

Chairman HUNDT. Thank you very much, Mr. Chairman, and thank you for your very kind remarks. Today is my eighth month anniversary. I have never had a better job, and I have never had more fun, and I appreciate the fact that you participated in giving me this chance to serve the country.

We now have five Commissioners for the first time in more than a year, with the arrival of Commissioner Susan Ness and Commissioner Rachelle Chong, and we certainly need all of the Commissioners to be there, because the issues are complex and challenging.

I want to thank you, Mr. Chairman, and your colleagues, for your decision on our fiscal year 1995 appropriations, which the Senate, of course, passed a week ago after the Appropriations Committee sent it forth. I think you showed great wisdom in appreciating the significance of the communications sector in our economy. And I assure you that everybody at the Commission will work very, very hard with their new colleagues to do their part to continue to promote and advance competition, economic growth, and job creation in this sector.

I also want to thank you, Mr. Chairman, and your colleagues, and congratulate you on your wisdom in giving us the ability to conduct auctions for the award of licenses. The processes previously used like comparative hearings and lotteries produced a number of results, not necessarily all of those desired. The auction process,

even yesterday and today, we are implementing for the first time in our country's history. And I would like to take just a minute and give you the interim results, if I might.

I have to report to you that the auction for the 10 nationwide narrowband licenses for personal communications services—PCS—which total about 1 megahertz, is still continuing. As of round 40, closing last night at 9:40 p.m., the aggregate sum bid was \$609,560,995. We, at the FCC, made no estimate, but industry estimates, generally speaking, were radically lower.

Some industry experts had been estimating that all the narrowband licenses would go in the neighborhood of maybe \$50 million. Others estimated were slightly higher. But I think it is fair to say that there were absolutely no industry estimates that thought the number would reach nearly to this height. And, of course, the auction has not yet closed.

I would like to, if I could, offer the following comments. I believe that the amount of money raised in this auction for narrowband is a window on the future in this respect. The reason people are spending this amount of money is because they see business prospects that justify that kind of expenditure.

This auction number is a picture of bullishness in our economy—bullishness relating to the wireless area.

Second, we are also auctioning at the same time IVDS spectrum. This spectrum is reasonably seen as complementary to broadcast spectrum. When coupled with the broadcast signal, it permits interactivity with that broadcast signal. These licenses are regional licenses, and there are in total about 600 to be sold.

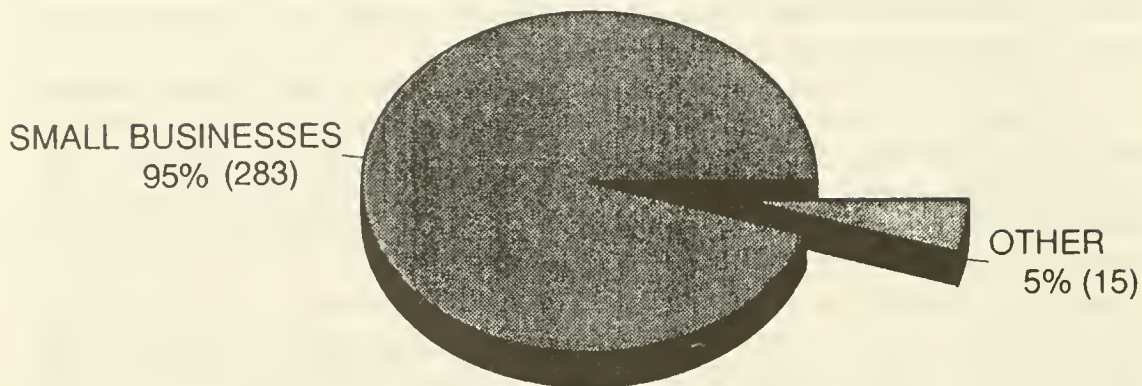
As of the close of that particular auction yesterday, 298 had been auctioned for a total adjusted bid amount of \$167.9 million. And that number also is vastly in excess of industry estimates—again, indicating that the people with the money see tremendous business prospects. And, of course, we all know that when they have paid these amounts of money for the licenses, they will be very eager to pursue the exploitation of those licenses—and that means creation of new jobs.

Last, Congress asked us to take special measures to see if it were possible in these emerging industries to be more inclusive of small businesswomen and minorities. Congress recognized that a problem in the communications sector has been the comparative lack of inclusion of small business, women, and minorities. Congress asked us to make sure that if we could think of a fair way to do it, communications industries of the future should look more like the people they serve.

I would like to report to you with respect to IVDS licenses that have already been auctioned. We have the news as set forth in exhibit 1 and exhibit 2, which I hope have been handed to the Senators.

[The graphs follow:]

IVDS LICENSES AUCTIONED—DAY 1



July 28, 1994

TOTAL LICENSES: 298

IVDS LICENSES AUCTIONED—DAY 1



July 28, 1994

TOTAL LICENSES: 298

The first, exhibit 1, shows that for these IVDS licenses, which we estimated were typically appropriate small business activities, it has turned out that 95 percent of them have gone to small businesses. Within that category of these 298, 31 percent have gone to minorities; 40 percent have gone to nonminority women. So, that the total number for minorities was 93 out of 298, and the total number for nonminority women was 120.

We have aspired to fulfill the congressional intent. And I would like to point out here that in this single auction, we have, if you want to regard these as broadcast-like licenses, we have, with respect to minorities, more than tripled the number of licenses if the comparison point is to the number of broadcast TV licenses in the hands of minorities, which is a number less than 30.

And with respect to nonminority women, again, we have made a big dent in the problem there of including women in the broadcast business.

So, I thought you would like to have this news, even though it was only interim, because the auctions are continuing even today.

Thank you very much.

[The prepared statement of Chairman Hundt follows:]

PREPARED STATEMENT OF REED E. HUNDT

Thank you for this opportunity to testify on behalf of the Federal Communications Commission's Fiscal Year 1995 authorization legislation. With the recent arrival of Commissioners Susan Ness and Rachele Chong, the Commission is at full force and confronting a wide array of challenging issues. Today is my eighth month anniversary as Chairman. During my brief tenure, I have found the work of the Commission to be exciting and rewarding. The events of the past week symbolize what we can accomplish and the significant difficulties we face.

On Monday, the Commission commenced the auction for ten narrowband licenses for Personal Communications Services (PCS). Yesterday, the auction for interactive video data service channels began. The nation's first auction of government spectrum represents a historic endeavor to award licenses on a competitive basis. In the auction process, the government does not dictate how the spectrum should be used, nor does it limit opportunity to just a few. Auctions offer Americans the opportunity to purchase spectrum and then, with their customers, decide how to use it. The benefits are substantial, including revenue to the United States treasury and markets that enhance consumer choice, stimulate economic progress and create job opportunities for all Americans. The amount of the bidding for the narrowband licenses, in excess of \$565 million, has exceeded the most optimistic prediction.

This Committee envisioned the benefits of auctions. Senator Hollings, Senator Inouye, Senator Danforth and Senator Stevens had the foresight to break with the long established status quo. Not quite a year ago, Congress conferred authority on the Commission to award licenses competitively. By comprehending the potential of new wireless technologies, and in fashioning a process to bring it to the consumer expeditiously and fairly, the Committee exemplified the highest standards of the public interest. The Committee's present and broader work in structuring a new era of innovation and growth for the telecommunications industry closely parallels their previous action on auctions. A bipartisan commitment is evident by both this Committee's effort to reform telecommunications legislation and the overwhelming passage of H.R. 3626 by the House of Representatives. The enormous undertaking of the Committee and its staff to the first comprehensive revision of the Communications Act, S. 1822, The Communications Act of 1994, will result in new opportunities and economic growth. As the legislation moves toward enactment, we remain committed to assisting and supporting the Committee. Most importantly, we look forward to implementing the law.

Actions by both the Congress and the Commission will have a global impact. Vice President Gore, in his address to the International Telecommunications Union in March 1994 in Buenos Aires, conveyed the imperatives of telecommunications policy: competition and private investment, a regulatory environment that fosters them, and the commitment to pursue universal service. The world looks to the United States for leadership in this important area. Economic growth, job opportunities, and wider choice, are the rewards of technological advancement. These benefits must enure to all members of society. We also have a fundamental opportunity because of provisions in S. 1822 to improve tangibly the education of our children.

During the last week, the Committee expressed substantial support for the Commission. The appropriation recommended by the Subcommittee on Commerce, Justice, State and the Judiciary, chaired by Senator Hollings, was \$198.2 million. This significant enhancement was affirmed by the Appropriations Committee and passed the Senate on July 22, 1994. We understand and appreciate the responsibilities concurrent with this appropriation and will expend these resources prudently and responsibly.

When I appeared at the 1995 authorization hearing before the Subcommittee on Telecommunications and Finance of the Committee on Energy and Commerce of the House of Representatives, the Commission's circumstances were less optimistic. I focused on the our greatest challenge, that of obtaining adequate resources to address the myriad matters pending or approaching the Commission during a period of unprecedented industry growth and extraordinary public attention. I stated unequivocally

cally that the inadequacy of the Commission's resources had reached crisis proportions.

The Commission has less staff than a decade ago, yet its workload has increased dramatically. For example, in 1980, the Commission had 2,200 full-time equivalent (FTE) positions; in 1993, following a decade of historic growth in the telecommunications sector, the number of FTEs fell to 1,724. Moreover, the infrastructure of the agency, from its buildings to the quality of its equipment, is desperately in need of substantial upgrading.

The implementation of auction authority granted to the Commission last August by Congress exemplifies the strains imposed by lack of resources. The need to ensure expeditious and fair implementation of the law required the Commission to detail staff from virtually every bureau of the agency. The Commission has dedicated itself to more than the intricacies of the auction process. It has followed Congress' instruction that these advanced communications services be made available quickly, and in a manner that assures participation representative of American society, especially those who have been shut out historically. Moreover, these services must be available to rural and urban areas.

The events of this week, as well as the upcoming broadband auctions, reflect highly on the dedicated staff of the Commission, who personify the highest standards of public trust. The tremendous effort involved in implementing the auctions has come at a very high price. Other important work of the Commission has had to wait. This has added to a backlog resulting from expanding communication industries and a shrinking Commission.

The industries the Commission regulates have grown in ways hardly imaginable just ten years ago. The evolution of technology had spawned services in virtually every sector that requires the attention of the Commission, including wireless, satellite, cable, common carrier and broadcasting. We have found ourselves responsible for new and expanded activities while, concurrently, the size of our base responsibilities was similarly expanding. For example, in the policy and rulemaking area, filings requesting or commenting on Commission actions increased 56 percent over the last five years. In enforcement, tariffs submitted for review by telephone companies increased from 1,900 in 1980 to 4,430 in 1993. In the licensing area, workloads increased across the board. TV assignment and transfer requests grew from 186 in 1980 to 731 in 1993. As result of the agency's diminishing resource base, backlogs have accumulated to an unreasonable and unacceptable status in virtually every component.

I concluded my testimony at the House hearing by stating that there was inadequate staff to fulfill the duties envisioned by Congress, and that the economic promise of the telecommunications industry would be compromised. The Commission's capacity to act decisively, with clearly articulated rationale is subject, to extreme strain. That week the Commission submitted a request to the Office of Management and Budget to amend the Commission's fiscal year 1995 budget request to return staffing to the levels of 1993. I appealed to members on the House Subcommittee on Telecommunications and Finance to supply the financial resources to support that request.

As I related, the Senate's action on July 22, 1994, as well as the House Subcommittee authorization recommendation, reverses the direction of the agency's resources. Additionally, OMB has agreed to increase the allocation of Full Time Equivalent positions for Fiscal Year 1995. As a result of your efforts, there is much to be optimistic about. We respectfully request and urge your continued support as the appropriations bill goes to conference with the House of Representatives.

Concurrent with our efforts to seek an increase in resources to meet our expanding duties, we have been examining those duties which are antiquated or generate more work than benefit as well as those responsibilities that can be streamlined. We have submitted to the Subcommittee a package of amendments to present law that reflect this goal. One of the amendments would authorize the Commission to issue by rule blanket licenses for radio equipment on boats and small aircraft. By eliminating an unnecessary individual licensing requirement, this amendment would result in cost savings for the Commission, as well as relieve the public of the burden of filing thousands of license applications each year.

Other amendments we have proposed would authorize the FCC to issue forfeitures for violations of the Communications Act and Commission rules imperiling the safety of life; increase the statute of limitations period from one to five years to assist in the enforcement of the common carrier jurisdictional separations and cost allocation rules; and clarify the Commission's authority to reject a common carrier tariff and to make refunds to redress common carrier violations.

We are also searching internally for ways to work smarter and better. We have embraced the Vice President's National Performance Review and commenced an

agency wide effort to reinvent government. We have received input from hundreds of individuals regarding possible changes to the Commission's current structure in order to enhance efficiency and effectiveness.

We have set a number of goals. The Commission's objectives are to recognize and nurture the special needs of new technologies and markets, a task requiring special attention and not necessarily best served by organizational divisions established long before those technologies existed. Moreover, we seek to reflect and facilitate the fulfillment of new responsibilities entrusted to us by Congress, and to develop expanded career opportunities for the highly competent and extraordinarily dedicated employees who populate the agency, while making the changes necessary to achieve efficiencies and advance our goals.

A structure being contemplated is the creation of a Wireless Telecommunications Bureau to oversee deployment of the new personal communication services that are being licensed through the auction process. That new bureau would include functions of the components that share duties related to personal communication services. We are also contemplating the creation of an International Bureau in recognition of the expanding role in our society of global communications. International duties are now handled by various components of the agency. By centralizing in one bureau all of the Commission's functions relating to international issues, we enhance our ability to promote global communications and recognize the resulting benefits. We will keep the Committee apprised of our proposals and seek its advice prior to implementation of any changes.

Our plans for enhanced efficiency do not focus solely or mainly on agency structure. There is the challenge of streamlining Commission rules. As part of that process, we are committed to redesigning forms and facilitating the filing and review process of the range of applications submitted to the Commission. We welcome your comments and recommendations as we study ways to improve our own delivery of services.

Overall, whether it be in the substance of its work, the structure of its organization, or the processes of carrying out its responsibilities, the Commission is pursuing vigilantly the establishment of an environment in which consumers have access to a range of competitive choices at competitive prices, but also one in which meaningful access to modern communications is available to all Americans. Promoting competition and access concurrently is not easily accomplished, as this continues to represent a fundamental change for large parts of the telecommunications industry. It is rare for an entity to welcome a competitor, and the Commission's hard experience shows the degree to which parties cling to the status quo. The Committee's commendable pursuit of S. 1822 reflects our parallel courses.

The most enriching aspect of my tenure has been the ability to see and convey how your work and ours, actually makes a difference to individuals. When I visited the dedicated teachers and students at the Ralph Bunche school in Harlem, New York, I saw how the capabilities of interactive media can enrich the lives of the students so they are more prepared, and more willing, to meet the challenges that life presents. Poignantly, one can also grasp what other children are missing. Last week, when I was in Russia to take part in discussions with my Russian counterpart to promote competition and technology, I had an opportunity to visit with a group of children. When I conveyed to one young girl the ability, through interactive technology, of a native Russian to teach her language to a group of individuals in the United States, the smile on her face reflected a comprehension of the possibilities telecommunications opens.

These are exciting and challenging times. The Committee's continued support is a fundamental element of the Commission's ability to fulfill its obligation to the American people. We look forward to working with you and, as I related earlier, to implementing in the coming years the bold new telecommunications legislation that will guide our country into the next century.

Thank you for the opportunity to appear before you today. I would be pleased to answer any questions.

Senator INOUE. I thank you very much, Mr. Chairman.

As you have indicated, your rules, especially on PCS, allow special consideration for minorities, women, and small businesses. And I understand that your Commission has chosen to implement this mandate by adopting the SBA rules on affiliated entities.

The affiliation rules of the SBA recognize that Native American tribes are a historically disadvantaged group. And if that is the

case, can you tell me why you have excluded Native Americans from the FCC's definition of "designated entities"?

Chairman HUNDT. I believe, Mr. Chairman, that Native Americans are included within the category of designated entities; however, there are, as I am sure you know, certain corporations that are largely, in some cases, exclusively owned by minorities that have such wealth that the value of those corporations took them out of the limitation that we set for small business participation in broadband PCS.

So, what happened with respect to the example that you are alluding to is that the so-called entrepreneurs bloc set aside for small businesswomen and minorities, in a few cases, did not include the very, very wealthy corporations that happen to be owned by women and minorities. And some of those are Native American-owned corporations.

Senator INOUE. But you have also excluded Native Americans, the poor ones, from the designation of entities.

Chairman HUNDT. I do not believe so. I believe that, acting as individuals, Native Americans are included in the category of minorities, but that the other limitation or qualification is that they need to be small businesses. And where they are not small businesses, where they are owners of these very wealthy businesses, that is what took them out of the entrepreneur's bloc.

Senator INOUE. Your testimony on the IVDS auctions are most encouraging, but I believe at the present time only 490 telecommunications firms out of 98,000, and only 9 cable firms are minority controlled, and about 300 out of 10,000 commercial broadcast stations are minority controlled. I believe much more should be done. Are we doing anything?

Chairman HUNDT. I agree with you. In fact, the broadcast number is that high only because radio was included. If we look at TV licenses, the number is less than 30 that are minority controlled. I absolutely think much more should be done.

I had the chance to share my views on that subject with the National Urban League a couple of days ago, and we intend to work with Hugh Price, the new head of the Urban League, and try to make sure that the minority community has the opportunity to attract capital so that it can participate in all of these emerging communications markets.

Senator INOUE. Yesterday, the U.S. Senate spent much time on children and violence. And as one of the authors of the Children's Television Act of 1990, and also of the Endowment Fund, I am concerned that the FCC rules on children's TV are not achieving the quality and the amount of children's programming that we had hoped to achieve.

Do you have any plans to revisit these rules?

Chairman HUNDT. Yes, we are looking at this issue. And as I suspect you know, Mr. Chairman, we had a very fascinating open meeting on this topic just a few weeks ago. What we were told at that open meeting is that the Children's TV Act itself appears to have had a very significant positive effect on children's programming in the United States.

We were showed a graph that indicated that starting in about 1980, the amount of children's programming every year has de-

clined, all the way until the effective date of that statute. And at that date, the amount of children's programming hit a bottom, and it has been on the way up ever since that act became law.

The question is whether we should do more under that act to fulfill its purpose so as to keep this now upward ascending curve still on the way up. And we are looking very, very seriously at that.

Senator INOUE. I would like to have this committee kept current on your efforts on this.

In your prepared statement, you state the following:

In the auction process, the Government does not dictate how the spectrum should be used, nor does it limit the opportunity to just a few. Auctions offer Americans the opportunity to purchase spectrum and then, with their customers, decide how to use it.

Mr. Chairman, the legislation authorizing the use of auctions was limited only to the right of assignment of licenses to use the spectrum, not the purchase of the spectrum. Are you suggesting that the winning bidders are gaining more of a proprietary right for the use, other than the right of assignment?

Chairman HUNDT. No, I think your phrasing is more accurate than mine, and my statement should probably be amended to reflect your correct points.

Senator INOUE. So, you believe the law could use some amending?

Chairman HUNDT. No, sir, my statement, not the law.

Senator INOUE. Well, I thank you very much, Mr. Chairman. I have a couple of other questions, one on your reorganization plans, and we would like you to provide the committee with a breakdown on the adjustment of staff among the bureaus, and second, I have a couple of questions on telephone companies and video dial tone services, and so if I may, I would like to submit them to you for your consideration and response.

Chairman HUNDT. I would be delighted to get them, and we will respond promptly. Thank you.

Senator INOUE. Now I would like to call upon the granddaddy and author of the auction process, and usually auctioneers get a percentage cut from what you have made—1 percent would satisfy him—Senator Stevens. [Laughter.]

Senator STEVENS. I was going to ask if you have got the law that allows the employees to make the suggestion that it saves money or brings money in to get a piece of it. Do you have that provision down there?

Chairman HUNDT. I think I made all the suggestions. [Laughter.]

Senator STEVENS. I was going to suggest that since there are so many people around here who want to apply the executive branch laws to Congress, I think that is one I will apply to Congress retroactively, if that is all right. [Laughter.]

Seriously, I am very pleased with it. We tried for three Congresses to get the Government to realize the vast potential of this type of approach to dealing with the new spectrum that could be licensed, and I am delighted the way you have handled it, and I agree with the chairman, however, there may be some fine-tuning necessary.

Mr. Chairman, I would like to be a cosponsor of this bill with you, if I may.

Senator INOUE. Without objection.

Senator STEVENS. I do think that it is one that should be looking over the spectrum process to make sure it is working. I only have one question, Mr. Chairman, and that is that I understand that the process that you had worked out would allow wealthy individuals up to \$40 million apiece to pool their approach and use a consortium to bid.

In my State, as you point out, we have—Congress created a series of regional corporations that are managing the assets that are given to our Alaskan Native people to settle their land claims, and in the process we have required them to put on their balance sheet the value of the land that the region owns. Although that land is in reserve and could not be sold by them, it is still an asset. Why the discrimination?

If we had 6,000 residents of Anchorage that had \$40 million apiece and wanted to bid on a license, they could form a consortium. We have 6,000 Native people who are really sort of land poor, and they are denied the right to bid. Why have these corporations formed by Congress to protect the assets of Alaska Native people for future generations? Why should they not be allowed to participate as a consortium, just like 6,000 very wealthy—I think someone who has got \$40 million is pretty wealthy, Mr. Hundt. Why the discrimination against our Alaskan Native people?

Chairman HUNDT. I think you are making a very important point, and of course, there still is room for fine-tuning with respect to the broadband PCS auction. Our concern in the entrepreneurs block was to make sure that we defined inside that group a broad base of small business women and minorities, but also excluded from that group those who, frankly, have such huge amounts of assets that they would threaten to acquire all the licenses within the group, and since it is a limited number, deprive the small business women and minorities of a chance to get them.

Senator STEVENS. Did you look at the number of licenses the individual business consortium could receive under the license process? You said you were afraid they might be able to acquire all of the licenses in the entrepreneur group. That would not have been possible anyway, would it?

Chairman HUNDT. Well, what I meant to communicate was, there is in this country a group, not a large group, but a group of women and minorities who are very wealthy, and we have not understood it to be Congress' intent that just that group would prevail in acquiring all the licenses reserved for small business women and minorities. So, what we have been struggling with is how exactly to draw a line that would create the kind of dissemination of licenses that was specifically called for in the statute while at the same time would be fair in terms of who was included.

I will freely grant that this has been a difficult problem, and one in which we have had no history to guide us, because, of course, all of these events that we are creating are first-time events in history, and there is an opportunity to consider anew and again the points you are making, Senator, and we will do so.

Senator STEVENS. I hope you will, and I wish you would come up and see some of the villages we are talking about, the members of which are shareholders in the regional corporations. They are not

wealthy individuals. These people have wealth only because we have provided that the land that Congress literally conceded they owned would have to be maintained for future generations, and there they cannot sell the land. Or, they could sell some of it, but they cannot sell the whole block.

They can sell land for their own development purposes, but the real problem about it is that one of them does own a couple of small stations. The people that are bidding to acquire their stations were bidding in your process, but they could not—in other words, people who are wealthy enough to buy them out were bidding, but they could not go in and bid to obtain spectrum under the process.

I think that is wrong. I hope you will look at it, and I hope you will come meet some of these people that are the shareholders in this organization. It is, I think—well, there are some people at home that do not agree with it, but I think it is one of the finest acts Congress ever passed in dealing with the native people of the United States. These people have a mechanism that we set up that guarantees that future generations will have some assets left from the settlement.

Let me ask you, going back to the other point, though, is there a cap on the number of licenses that any entity can acquire in this bidding process at one auction?

Chairman HUNDT. Well, there are a number of different auctions underway with respect to IVDS. Nationwide you cannot acquire more than three narrowband licenses. With respect to broadband, there is a spectrum cap. There are a number of different caps. They all are designed to make sure that what we end up with at the end of the auction is vigorous competition in each of these markets so that not just one or two firms would dominate the markets.

Senator STEVENS. As I understand broadband—I do not want to see this process that I fathered become Ma Bell II.

Chairman HUNDT. That is exactly what we are aiming to avoid as well.

Senator STEVENS. Well, I do hope it will work out.

Again, I congratulate you on the process, and I still think it is the only logical way to deal with this kind of spectrum. I repeat my suggestion that you come visit with me and these people. They just happen to live along the rivers that have the nicest salmon in the world. [Laughter.]

Chairman HUNDT. I am sure I could make the time for that. [Laughter.]

Senator STEVENS. Thank you.

Senator INOUE. Thank you very much.

Mr. Chairman, I received a letter from the junior Senator of Alaska, Senator Murkowski. The question is in a similar vein on designated entities. He also involves the category of those with disabilities, and if I may, I would like to share this letter with you and request a response to that.

Chairman HUNDT. Yes, sir, Mr. Chairman.

[The information referred to follows:]

LETTER FROM REED E. HUNDT, CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION

SEPTEMBER 22, 1994.

The Honorable FRANK H. MURKOWSKI,
U.S. Senate,
Washington, DC 20510-0202

DEAR SENATOR MURKOWSKI: Thank you for your kind words about the success of our spectrum auctions. As you know, the Commission has taken a number of steps to ensure that the entities designated by Congress—small businesses, businesses owned by women and minorities, and rural telephone companies—have a meaningful opportunity to participate in spectrum-based services. For example, in the broadband PCS service, we have reserved “entrepreneurs’ blocks” for bidding only by relatively small companies and have adopted bidding credits and installment payment provisions for designated entities. In addition, in response to concerns expressed by you and others, in among other places in your July 28, 1994 letter to Chairman Daniel Inouye and during the Commission’s authorization hearing the next day, we recently relaxed our affiliation rules for Indian tribes and members of the Alaska Native Corp. As a result, these “forced aggregations” will be able to bid in the auction for the entrepreneurs’ blocks without counting the revenues and assets of their affiliated enterprises. A copy of that order is attached hereto [this order may be found in the committee files].

With regard to the concerns you expressed in the July 28 letter to Chairman Inouye and in subsequent correspondence dated August 12 and August 22, 1994 about individuals with disabilities, we have recently received a petition asking us to amend our rules to classify members of this group as designated entities. We intend to address all the issues raised by various petitioners in this auction proceeding as soon as possible and we will give the matters discussed in that petition serious consideration.

We appreciate your interest in this matter and we assure you that we are doing our utmost to ensure that the information superhighway is as diverse and inclusive as possible.

Sincerely yours,

REED E. HUNDT,
Chairman.

Senator INOUE. Senator Burns, it is your turn to do the auctioning.

Senator BURNS. I am just trying to get hired. My charge is usual—a sliding scale.

Senator INOUE. What is your charge?

Senator STEVENS. How much would you have gotten if you had sold those licenses?

Senator BURNS. Well, a sale that big, about 4.

Senator STEVENS. 4 percent?

Senator BURNS. Yep. [Laughter.]

What are you laughing for? That is cheap when you come to the prices of lawyers. [Laughter.]

Senator STEVENS. And he is selling something that stands on the ground, not air.

Senator BURNS. Well, 4 percent, I would take that, and I would not care about how it would come out this fall. [Laughter.]

All kidding aside, I do want—

Senator STEVENS. Would you yield just a minute?

Senator BURNS. Yes.

Senator STEVENS. I forgot to ask, and pardon me, I do want to have the right to submit some questions to the chairman based upon some suggested amendments that I would like to work out with you to this bill, so if I may have that right, thank you.

Senator BURNS. To give you an idea, Mr. Chairman, on this auction business, I think a couple of springs ago we sold about 95 animals in about 2½ hours, and each animal averaged about \$2,800

a head, and I got 5 percent, so I will take that 2 hours' work and go to the golf course and let the rest of the world go by, and put the animals to work for what they were bred to do, and they were bulls.

I do not have any questions, because we just got this last night, Mr. Chairman. What I do want you to do, I want you to write an article—that the auction method does work, and I think there will be a lot of businesses around that would want to take a look on how to do business, and how to take an asset and turn it into cash money pretty rapid. That is the way we do it.

I was interested in your comment, and it sort of threw me a little curve there, and by the way, thanks for coming down this morning. We get a little carried away here, but it is getting to the end. It is almost time to go home.

What do you mean by the adjusted amount, whenever you talk about gross figures on your sales from those auctions?

Chairman HUNDT. Well, with the IVDS licenses, the ones that are, as I called it, complementary to a broadcast license because they permit the signal to go back as well, in order to try to be more inclusive of women and minorities, we perceive that the problem was that women and minorities have had real trouble extracting capital.

Consequently, we in this auction gave them bidding credits, because we thought that if they had bidding credits they would attract more capital, and when I talk about an adjusted amount, I mean a subtraction from the stated amount by the bidding credit so as to get to the net number.

Senator BURNS. Thank you for that.

One other question, and I might have a couple more, and if you do not mind I would like to submit those in writing, and then you can respond to the rest of the committee if you would, please.

Tell me about video dial tone and those applications. How is that going, and just a brief update on that.

Chairman HUNDT. We are working very hard on that. We will, I expect, this fall complete the reconsideration on our rulemaking which will be our way of accommodating in our rules the many, many different proposals that the telephone companies have come forward with since video dial tone's birth, which showed just exactly how they would go about implementing this.

I have said, however, I should tell you, that it is our view as a policy matter that the best way for the telephone industry to move into the video world is through the legislation that you are considering in the Senate Commerce Committee. Video dial tone is an alternative, but not ultimately as useful and sound an alternative as the repeal of the cable-telephone company class-ownership prohibition in the 1984 Cable Act that is under consideration here.

Senator BURNS. Thank you, Mr. Chairman. I appreciate the work that you do, and I will get those questions to you, and thank you for coming today and putting up with all of this nonsense.

Thank you, Mr. Chairman, for letting us get a little giddy here. Thank you very much.

Senator INOUE. Chairman Hollings.

The CHAIRMAN. Thank you, Mr. Chairman.

Chairman Hundt, what I wanted to do is make certain that we made an authorization record here for the increased demand, burden, and functions of the Federal Communications Commission, because we find the casual treatment at the OMB level of the administration when they submit the budget, but no money, and just say you are supposed to get some fees, and of course the section 8 fees, we do not receive them.

Section 9 we do, but the section 9 fees established did not cover the budget, obviously, and as I view it now, what we have done on last Friday, we passed an appropriation over on the Senate side here of \$198,232,000. That is a breakdown of \$116,400,000 from section 9 fees, and an additional appropriation to bring it up to that amount, which is really an increase on the Senate side of some \$31,400,000 for that additional workload.

The workload there since 1980, we had noted that the FCC staff had been reduced, Mr. Chairman, by 500 full-time equivalent jobs, so in the last 14 years we have lost 500 slots, and yet at the same time we have had a 56-percent increase in the rulemaking area, the filings requested have gone from some 80,000 to 125,000. That 56-percent increase is just in the past 5 years.

In the enforcement area, the telephone company tariff submitted for review, that has increased from 1,900 in 1980 to 4,430 in 1993, and then in 1993 alone, Chairman Hundt, I think the FCC received over 32,000 complaints from the public and common carriers on telephone services that had to be handled.

The licensing area, the workload has increased throughout the agency with TV assignment and transfer requests. That has gone from 186 in 1980 to 731 in 1993, and we are continually feeling these new technologies in cellular telephone and direct broadcast satellites.

So, I think the authorizing committee has been very, very much aware of. When we get into conference it seems like there is a fetish about the authorization, Mr. Chairman, and we wanted to make sure that we were in lockstep with what I think Chairman Hundt and the Commission is trying to do.

They are trying, as the Dutch boy at the dike, to hold back the onslaught and play catch-up ball. That is not to say if we do pass a communications reform bill, which does not look likely at this moment—

Senator INOUE. If the chairman would yield, the bill that we introduced yesterday may not, even with its so-called generosity, meet the needs of the Commission. In addition to cable, which they now have on their laps, the auctioning is in their lap. Also, we have the potential of S. 1822.

When you add all of that up, whatever we provided in the authorization bill may really not suffice, and so I am prepared to at least go through this authorizing phase and provide the basic foundation amount that I believe the Commission would require, and as we move along, find out where the shortfalls are, but I really do not think, as you have indicated, that this bill will meet their requirements.

The CHAIRMAN. We appreciate your leadership on this, Mr. Chairman. What happens on the low Earth orbit systems, these LEO systems? I know five applicants have been negotiating but

they do not seem to be able to get together over the past couple of years, and you have had it for some time now. And we had conferred with the Commission and the Commission staff in trying to expedite it. Now, I think there is an agreement that they can put out perhaps a final report by January 31 of next year?

Chairman HUNDT. I think the order will be in October and the licenses will be in January; that is right, sir.

The CHAIRMAN. Well, I wanted to confirm that with you because in the interim period now that is going to cost them. They were explaining the financing for all the particular parties, some \$25 million already between that period of time. So, it is awfully expensive to back up this technology, and we do not want to be blamed at the Government level for any delays.

I appreciate it, Mr. Chairman. I see from Chairman Hundt's statement most of the items covered that we had in mind, and I thank you.

Senator INOUE. Thank you very much, sir.

Senator Pressler.

Senator PRESSLER. Thank you very much, Chairman Hundt. I want to first of all say that in recent years Congress has required the Commission to recover an increasing portion of its budget from user fees, and I suppose that pressure will increase as the national debt grows.

I am concerned that the regulatory fee schedule unfairly burdens broadcasters in small markets. One problem involves charging satellite television stations the same fee as a primary station. As you know, satellite stations are used to distribute a signal over a wider geographic area, often an area that could not support an independent station. Satellite stations are particularly prevalent in sparsely populated Western States.

Unfortunately, the proposed fee schedule would result in a New York City station paying less than a station in the very smallest city. A broadcaster in my State provides an example. KOTA in Rapid City has three satellite stations. The fee for stations in markets below the top 100 is \$5,000. Therefore, KOTA's total fee is \$20,000. However, the maximum regulatory fee for a station in a top 10 market such as New York City, Los Angeles, and Chicago, is only \$18,000.

The disparity is even more glaring if we consider the number of viewers served. KOTA and its three satellites serve 220,000 people in an area that would extend from Washington, DC, to Boston to Buffalo, NY. In the densely populated Northeast, hundreds of stations reach millions of viewers and pay a lower fee.

A similar disparity applies to the fees for radio stations. For example, all class C FM stations are required to pay \$900, no matter what size the market. In sparsely populated western States, a broadcaster essentially has to have a class C license to reach a viable audience. It seems some Washington bureaucrats still have no idea what sparsely populated western States are like.

My question is do you think the FCC schedule should be revised to address these issues?

Chairman HUNDT. I think that we should give very serious attention to that. Under the statute, as we read it, we are permitted to consider waiving the type of fee you mentioned based on economic

hardship. And my view, Senator, is that we ought to engage in that consideration since we are permitted to do so under the statute.

Senator PRESSLER. That is something we are very interested in in some of the smaller markets, because they feel they are paying more than some of the big stations are paying to serve a very, very few people. And 220,000 people is not a large audience, and that station is paying the highest fee, as I understand it, the maximum fee that you can pay. So, I hope that you will look into this. I would like to report back to my broadcasters and others in smaller areas that this is something we can—can we realistically expect a change in this?

Chairman HUNDT. Well, I believe that with respect to changes, as we understand the statute, we can implement changes as opposed to waivers after fiscal year 1994, and so yes, you can expect we will look very carefully into this.

Senator PRESSLER. On the issue of international telecommunications accounting rates, I would like to thank you for your response to my letter about international telecommunications accounting rates. Recently, I spoke to a telecommunications conference in Brussels, and this was one of the issues that I raised, at least, and I recently wrote an article in the Wall Street Journal about this problem.

The issue is vitally important to U.S. telecommunications trade. Because of above-cost accounting rates for completing international calls, U.S. long-distance carriers subsidize foreign telephone companies. As you know, in 1993 U.S. long-distance carriers paid foreign carriers approximately \$4 billion for terminating international calls. Of this figure, \$2 billion is a subsidy. These subsidies hurt not only U.S. companies, but also U.S. consumers. It is estimated that the average U.S. international caller pays \$100 a year due to the above-cost accounting subsidies to foreign telephone companies.

I am pleased that the Commission has encouraged U.S. carriers to negotiate international rates reflecting the actual costs of a telephone call. However, U.S. carriers have little leverage over foreign telephone companies which are often state-owned monopolies. This is really a trade issue. Realistically, how much can the Commission expect to accomplish?

Chairman HUNDT. Well, I think we can certainly try to accomplish a lot. Indeed, this is going to be a very significant agenda item at the International Telecommunications Union plenary gathering in Kyoto this fall. As a precursor to that, at the development conference of the ITU in Buenos Aires earlier this year, the Vice President made this one of the important parts of his now-famous speech to that development conference. The U.S. Government on the executive branch side, where the Commerce and State Department and the FCC share the international jurisdiction, has been of one mind and, I think, very aggressive in pressing this issue, because we agree with you, Senator, it is very important.

Senator PRESSLER. It is really a trade issue, I guess, but it is quite a significant trade issue. It amazed me the amount of money involved. We are subsidizing at about the level of \$2 billion a year. Are you working with, for example, Mickey Kantor's office and

some of the trade offices? Would this fall under GATT, to some extent, or how do we get the ball on the bat?

Chairman HUNDT. It has been perceived to be not necessarily a trade issue because it involves all different countries, and it is not really necessary that we confine this discussion to GATT. So, we pursue it in bilateral discussions with my counterparts from just about every country who are very frequently in Washington, we pursue it in the International Telecommunications Union, we pursue this discussion in many, many different forums, and we do make some success.

Senator PRESSLER. Good. Well, thank you for continuing to work on it. I appreciate the letter, the strong letter, you sent back to me. I hope we followed up with action.

Thank you, Mr. Chairman.

Senator INOUE. I thank you very much, and may I call upon Chairman Hollings again.

The CHAIRMAN. Thank you very much.

The Emergency Broadcast System in South Carolina after the Hugo hurricane, they realized they had to get together and coordinate, and they then did submit an application for an upgraded coordinated system there for the approval, and what we need, of course, is a report and order. Now, it has been there 3 years. Can you help us expedite that?

Chairman HUNDT. Yes, we can.

The CHAIRMAN. We are moving into the hurricane season. This was 5 years ago. We look for some in August and September. That is when they hit us.

Chairman HUNDT. We can expedite that.

The CHAIRMAN. Thank you, very much.

Thank you, Mr. Chairman.

Senator INOUE. Mr. Chairman, you do that, and the bill passes. [Laughter.]

Well, Chairman Hundt, I thank you very much, and congratulations on your first appearance to testify in behalf of an authorization bill. You have done very well, sir.

Chairman HUNDT. Thank you very much.

Senator INOUE. I am certain Chairman Hollings will try to schedule this at the earliest for an appropriate markup. And so we will be calling upon you for your responses to some of the questions that members will be submitting to you.

And with that, once again thank you and congratulations.

Chairman HUNDT. Thank you, sir.

[Whereupon, at 10:15 a.m., the hearing was adjourned.]

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