

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4700

To amend the Communications Act of 1934 to prohibit unjust enrichment in the award of licenses by means of pioneer preferences.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 1994

Mr. DINGELL (for himself, Mr. MOORHEAD, Mr. MARKEY, and Mr. SABO) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Communications Act of 1934 to prohibit unjust enrichment in the award of licenses by means of pioneer preferences.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Pioneer Preference Re-  
5 form Act of 1994”.

6 **SEC. 2. PIONEER PREFERENCES.**

7 (a) RECOVERY OF VALUE OF PUBLIC SPECTRUM.—

1           (1) AMENDMENT.—Section 309(j)(6)(G) of the  
2           Communications Act of 1934 (47 U.S.C.  
3           309(j)(6)(G)) is amended to read as follows:

4                   “(G) be construed to prevent the Commis-  
5                   sion from awarding licenses to those persons  
6                   who make significant contributions to the devel-  
7                   opment of a new telecommunications service or  
8                   technology, except that—

9                           “(i) the Commission shall prevent un-  
10                           just enrichment of any such person and  
11                           shall recover for the public a portion of the  
12                           value of the public spectrum resource made  
13                           available to such person by requiring such  
14                           person to pay a sum equal to not less than  
15                           90 percent of highest bid for a license  
16                           (awarded under this subsection) that is  
17                           most reasonably comparable in terms of  
18                           bandwidth, area designation, usage restric-  
19                           tions, and other technical characteristics to  
20                           the license awarded to such person; and

21                           “(ii) the authority of the Commission  
22                           to provide preferential treatment in licens-  
23                           ing procedures (by precluding the filing of  
24                           mutually exclusive applications) to persons  
25                           who make significant contributions to the

1           development of a new service or to the de-  
2           velopment of new technologies that sub-  
3           stantially enhance an existing service shall  
4           expire on September 30, 1998; or”.

5           (2) EFFECTIVE DATE.—The amendment made  
6           by paragraph (1) of this subsection shall apply to  
7           any licenses issued on or after June 3, 1994, by the  
8           Federal Communications Commission pursuant to  
9           any licensing procedure that provides preferential  
10          treatment (by precluding the filing of mutually ex-  
11          clusive applications) to persons who make significant  
12          contributions to the development of a new service or  
13          to the development of new technologies that substan-  
14          tially enhance an existing service.

15          (b) RULEMAKING REQUIRED.—The Federal Commu-  
16          nications Commission shall prescribe regulations specify-  
17          ing the procedures and criteria by which the Commission  
18          will evaluate applications for preferential treatment in its  
19          licensing processes (by precluding the filing of mutually  
20          exclusive applications) for persons who make significant  
21          contributions to the development of a new service or to  
22          the development of new technologies that substantially en-  
23          hance an existing service. Such regulations shall—

24                  (1) specify the procedures and criteria by which  
25                  the significance of such contributions will be deter-

1       mined, after an opportunity for review by experts in  
2       the radio sciences drawn from among persons who  
3       are not employees of the Commission or by any ap-  
4       plicant for such preferential treatment;

5               (2) require the duplication of an applicant's test  
6       results by independent parties;

7               (3) include such other procedures as may be  
8       necessary to prevent unjust enrichment by ensuring  
9       that the value of any such contribution justifies any  
10      reduction in the amounts paid for comparable li-  
11      censes under section 309(j) of the Communications  
12      Act of 1934 (47 U.S.C. 309(j)); and

13              (4) be prescribed not later than 6 months after  
14      the date of enactment of this section.

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