



March 15, 2019

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: Notice of *Ex Parte*

Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84; Reassessment of Federal Communications Commission Radiofrequency Exposure Limits and Policies, ET Docket No. 13-84; In the Matter of Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992, MB Docket No. 05-311

On March 13, 2018, the undersigned, along with the following individuals, met with Commissioner Geoffrey Starks, William Davenport, Chief of Staff and Michael Scurato, Media Legal Advisor in Commissioner Starks' Office:

- Angelina Panettieri, National League of Cities
- Stephanie Piko, Mayor, City of Centennial, CO
- John Fogle, Councilmember, City of Loveland, CO
- David Neal, Councilmember, City of Merriam, KS
- Andy Huckaba, Councilmember, City of Lenexa, KS
- Jesse Barlow, Councilmember, City of State College, PA
- Mike Lynch, NATOA's Board President and Director of the City of Boston's Broadband and Cable in the Department of Innovation and Technology
- Dan Cohen, NATOA Board Member and Attorney and Founder of the Cohen Law Group
- Gerard Lederer, Best Best & Krieger LLP, outside counsel for the City of Boston

During the meeting, we discussed the concerns expressed by local elected officials by their residents regarding the lack of updated RF emission standards, particularly with the expected proliferation of small wireless facilities being promoted by the Commission in its various small cell orders. We urged the Commission to work to publish updated standards or a clear affirmation that the existing standards have been found to be safe when applied to small wireless facilities placed in very close proximity to each other and to inhabited structures.

We also discussed other challenges local governments are encountering in trying to implement the Commission's September 27, 2018 Declaratory Ruling and Third Report and Order, FCC 18-133 ("Order") and noted that the pending Petitions for Reconsideration of the Order as well as the August 3, 2018 Third Report and Order and Declaratory Ruling, FCC 18-111 are serving to delay the 9th Circuit's ability to review the legal soundness of these orders.

The significant harms to local governments and Public, Educational and Government channels proposed in the Second FNPRM in Docket No. MB 05-311 ("FNPRM") were also discussed. The local government representatives made clear that the proposed interpretation of the FNPRM and cable industry are contrary to the plain language and legislative history of the Act. The interpretation is also counter to the mutual understanding of the Act that local governments and cable operators have relied upon for decades in negotiating and enforcing cable franchise agreements, settlement agreements and other vehicles by which the parties have agreed to address franchise violations.

Lastly, we discussed the "mixed-use rule" proposed in the FNPRM. Local government pointed out that the FNPRM wrongly reinterprets the Cable Act to preempt local government oversight with respect to non-cable services and facilities deployed by a cable operator. Moreover, by effectively exempting cable operators from local ordinances that apply to non-cable operators that compete with cable operators in providing the same non-cable services, such rules would preclude local governments from establishing and enforcing non-discriminatory access rules. There is no support in the Cable Act or its legislative history for the proposition that once a cable franchise is granted, all regulatory authority over the cable operator's non-cable service evaporates.

Pursuant to Section 1.1206(b) of the Commission's rules, a copy of this letter is being electronically submitted in the record of these proceedings and provided to the Bureau participants. Please do not hesitate to contact the undersigned with any questions.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Nancy Werner', with a stylized, flowing script.

Nancy Werner
General Counsel
NATOA

cc: Commissioner Starks
William Davenport
Michael Scurato