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July 30, 1996

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Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: Ex Parte Presentation in CS Docket 96-46

Dear Mr. Caton:

Pursuant to 47 C.F.R. § 1.1206, I submit this original and one copy of a letter disclosing a written and oral ex parte presentation in the above-captioned proceeding.

On July 29, 1996, the undersigned and Jill Lesser, on behalf of the Alliance for Community Media and People for the American Way, respectively, met with Anita Wallgren, Esq. counsel to Commissioner Ness.

The meeting dealt with regulations regarding open video systems, including matters set forth in the attached talking points, which were handed out at the meeting.

Sincerely,

Jeffrey S. Hops  
Director, Government Relations

Enclosure

cc: Anita Wallgren, Esq.  
Jill Lesser, Esq.

**TALKING POINTS FOR OVS RECONSIDERATION**  
Presented by Alliance for Community Media et al ("Coalition")

- The Commission should impose a pre-certification separate subsidiary requirement, to implement Congress' intent that video services be offered to third parties in a non-discriminatory manner.
- The Commission should require OVS operators to certify their compliance with Part 64 Cost-Allocation rules, local authorization, and PEG access requirements before they are certified to begin service. This procedure will make the law easier to enforce and produce less work for the Commission.
- The Commission should reconfirm that the requirement that OVS operators provide PEG access, equipment, facilities and services that are "no greater or lesser" than the level provided by cable operator means that the OVS operator must either negotiate an agreement with the franchise authority or match the terms of the existing cable franchise agreement. Binding arbitration, which would likely produce a result that is greater or lesser is not an acceptable third alternative.
- Where Cable Operators have built I-nets, OVS Operators must also provide I-nets.
- The Commission should require OVS operators to disclose the terms of their contracts with their programming affiliate (if any), and with all third-party users of the programming platform.
- If the Commission is serious about non-profit rates, they must be made mandatory rather than voluntary.