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Director  
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Group-Washington

November 21, 1996

**EX PARTE**

William F. Caton  
Acting Secretary  
Federal Communications Commission  
Mail Stop 1170  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Dear Mr. Caton:

Re: *Fresh Look* -- Telecommunications Services Inside Wiring, Customer Premises Equipment, CS Docket No. 95-184, Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Cable Home Wiring, *MM Docket No. 92-260*

Please associate the attached material with the above referenced proceeding.

We are submitting two copies of this notice in accordance with Section 1.1206(a)(1) of the Commission's Rules.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,



cc: Rick Chessen  
Jackie Chorney  
Meredith Jones  
John Logan  
JoAnn Lucanik  
Larry Walke

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November 21, 1996

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

JoAnn Lucanik  
Chief, Policy and Rules Division  
Cable Services Bureau  
2033 M Street, N.W., Room 406  
Mail Stop 1200  
Washington, D.C. 20554

Re: Fresh Look -- *Telecommunications Services Inside Wiring, Customer Premises Equipment, CS Docket No. 95-184, Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Cable Home Wiring, MM Docket No. 92-260*

Dear Ms. Lucanik:

We submit this ex parte letter in the context of the pending cable inside wire dockets referenced above. We advocate that the Commission provide for a "fresh look" at existing exclusive contracts after it promulgates new cable inside wire rules. We propose that any video provider who has newly installed at least 75% of the inside wiring of a Multiple Dwelling Unit ("MDU") within the year preceding the issuance of a Commission order in these dockets or thereafter should be allowed to enter into an exclusive contract for a period of not more than 3-5 years. The inside wiring at issue should include feeder cable and other components on the network or provider side of the demarc *and* the home run or drop wiring to individual units. In this way, the exclusive contract will allow the provider to recoup the cost of installing the new wiring, but will not be of such a long duration as to permanently shut out competitors.

On the other hand, where the video provider has not installed new wiring, any exclusive contract should be subject to a "fresh look." In this situation, there is no cost recovery basis for retaining exclusivity, and an exclusive contracts simply bars competitive entry. The fresh look should occur at the *later* of the following two points: 1) when the Commission promulgates its rules in connection with the above-captioned dockets, or 2) when an alternative video provider (*i.e.*, a provider seeking to serve an MDU in which another provider has an exclusive contract) seeks access to wiring in the MDU. If item 2 occurs latest, the incumbent provider should have 7 days to give

notice to the MDU owner that the owner has the right to a fresh look at his exclusive contract. If the owner exercises his option to be released from the exclusivity provision of the contract in the 30-day period following the date he is given notice of this option, the exclusivity provision will cease to be effective. All other provisions of the contract will continue in force so long as they do not, *de facto*, restore the element of exclusivity to the contract.

We believe our proposal preserves exclusive contracts in a narrow range of situations in which they are necessary to allow a provider to recoup the often significant investment made in rewiring a building, while not allowing such contracts to freeze out competition. We appreciate your attention to our concerns.

Sincerely,

A handwritten signature in cursive script that reads "Sarah R. Thomas".

Sarah R. Thomas  
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Pacific Telesis Legal Group  
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San Francisco, CA 94105  
(415) 542-7649  
0150640.01