EX PARTE OR LATE FILED

# WINSTON & STRAWN

FREDERICK H. WINSTON (1853-1886)
SILAS H. STRAWN (1891-1946)

1400 L STREET, N.W.
WASHINGTON, D.C. 20005-3502

(202) 371-5700

FACSIMILE (202) 371-5950

CHICAGO OFFICE
35 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60601
(312) 558-5600

NEW YORK OFFICE
175 WATER STREET
NEW YORK, NY 10038-4961
(212) 269-2500

DEBORAH C. COSTLOW
(202) 371-5763

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

**VIA HAND DELIVERY**

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

Re: *Ex Parte* Presentations in IB Dkt. No. 95-59/ CS Dkt. No. 96-83, CS Dkt. No. 96-85 and Dkt. Nos. 92-260/ 95-184

Dear Mr. Caton:

I am hereby submitting an original and nine copies of this notice of the Independent Cable & Telecommunications Association ("ICTA") of *ex parte* presentations in the above-referenced dockets.

On December 17, 1996, Bill Burhop, the Executive Director of ICTA, and myself, as ICTA's outside General Counsel, met with Suzanne Toller, Legal Advisor to Commissioner Chong. In this meeting, the parties briefly discussed the status of inside wiring proceeding (Dkt. Nos. 92-260/ 95-184). The parties primarily addressed the Cable Act Reform rulemaking (CS Docket No. 96-85). As set forth in its comments, ICTA urged the Commission not to utilize federal antitrust law in evaluating whether a bulk discount is predatory but to apply a "bright-line" standard based on price differentials instead. ICTA further emphasized that the Commission should retain its current definition of "multiple dwelling unit" ("MDU") and to define "bulk discount" so as not to permit a cable operator to offer discount rates on an individual basis to subscribers simply because they reside in an MDU.

The parties also met with Marsha MacBride, Legal Advisor to Commissioner Quello, on December 17. In this meeting, the parties addressed each of the above-referenced dockets. With respect to Cable Act Reform, ICTA reiterated its position as stated above. The parties further discussed the issues raised in ICTA's comments submitted in the OTARD rulemaking, IB Dkt. No. 95-59/ CS Dkt. No. 96-83, including the unconstitutionality of applying Section 207 of the Telecommunications Act of 1996 to rental MDUs and the absence of statutory authority for such application. Relating to the inside wiring rulemakings, ICTA urged the Commission to establish the demarcation point for MDUs where the wire is solely dedicated to an individual rental unit and that

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the wire be offered to sale to the property owner in order to avoid constitutional implications. ICTA also argued that the Commission should not adopt mandatory access and that the pro-competitive features of exclusive contracts clearly outweigh any possible anti-competitive element posed therein.

On December 18, 1996, Bill Burhop and I met with David Siddall, Legal Advisor to CommissionerNess, to discuss ICTA's position in the OTARD proceeding, as stated above and as discussed in ICTA's comments. We further met with Anita Wallgren, also Legal Advisor to Commissioner Ness. In this meeting, ICTA restated its position with respect to Cable Act Reform. Additionally, the parties briefly discussed the status of the inside wiring rulemaking.

Finally, on December 18, 1996, I met with Jackie Chorney, Legal Advisor to Chairman Hundt. We briefly touched on the issues raised in the inside wiring rulemaking, and discussed ICTA's arguments surrounding the issues to be addressed in the Cable Act Reform proceeding.

Sincerely,

Deborah C. Costlow/ssa

Deborah C. Costlow

cc: Jackie Chorney
Marsha MacBride
David Siddall
Suzanne Toller
Anita Wallgren