EX PARTE OR LATE FILED

National Cable Television Association

Neal M. Goldberg
General Counsel

1724 Massachusetts Avenue, Northwest
Washington, D.C. 20036-1969
202 775-3664 Fax: 202 775-3603

February 21, 1997

Thomas Boasberg, Esquire
Legal Advisor
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

RECEIVED
FEB 21 1997
Federal Communications Commission
Office of Secretary

Re: Ex Parte Presentation; CC Docket #96-45
Federal-State Joint Board on Universal Service

Dear Mr. Boasberg:

On behalf of the National Cable Television Association, Inc. ("NCTA"), and pursuant to our recent discussion, attached please find a memo explaining why universal service support for schools and libraries is not limited by the Communications Act to "eligible carriers."

Pursuant to §1.1206(a)(1) of the Commission's rules, two copies of this letter and the attached memo are being filed today with the Office of the Secretary.

Thank you for considering our views on this important issue. Please do not hesitate to contact me if we can be of further assistance.

Sincerely,

Neal M. Goldberg

NMG:tkb

Attachment

cc: William F. Caton
Acting, Secretary

No. of Copies rec'd 0+1
List ABCDE

National Cable Television Association

Neal M. Goldberg
General Counsel

1724 Massachusetts Avenue, Northwest
Washington, D.C. 20036-1969
202 775-3664 Fax: 202 775-3603

February 21, 1997

James L. Casserly, Esquire
Senior Legal Advisor
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

Re: Ex Parte Presentation; CC Docket #96-45
Federal-State Joint Board on Universal Service

Dear Mr. Casserly:

On behalf of the National Cable Television Association, Inc. ("NCTA"), and pursuant to our recent discussion, attached please find a memo explaining why universal service support for schools and libraries is not limited by the Communications Act to "eligible carriers."

Pursuant to §1.1206(a)(1) of the Commission's rules, two copies of this letter and the attached memo are being filed today with the Office of the Secretary.

Thank you for considering our views on this important issue. Please do not hesitate to contact me if we can be of further assistance.

Sincerely,

Neal M. Goldberg

NMG:tkb

Attachment

cc: William F. Caton
Acting, Secretary

National Cable Television Association

Neal M. Goldberg
General Counsel

1724 Massachusetts Avenue, Northwest
Washington, D.C. 20036-1969
202 775-3664 Fax: 202 775-3603

February 21, 1997

Daniel Gonzalez, Esquire
Legal Advisor, Common Carrier
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

Re: Ex Parte Presentation; CC Docket #96-45
Federal-State Joint Board on Universal Service

Dear Mr. Gonzalez:

On behalf of the National Cable Television Association, Inc. ("NCTA"), and pursuant to our recent discussion, attached please find a memo explaining why universal service support for schools and libraries is not limited by the Communications Act to "eligible carriers."

Pursuant to §1.1206(a)(1) of the Commission's rules, two copies of this letter and the attached memo are being filed today with the Office of the Secretary.

Thank you for considering our views on this important issue. Please do not hesitate to contact me if we can be of further assistance.

Sincerely,

Neal M. Goldberg

NMG:tkb

Attachment

cc: William F. Caton
Acting, Secretary

National Cable Television Association

Neal M. Goldberg
General Counsel

1724 Massachusetts Avenue, Northwest
Washington, D.C. 20036-1969
202 775-3664 Fax: 202 775-3603

February 21, 1997

James Coltharp,Esquire
Legal Advisor, Common Carrier
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

Re: Ex Parte Presentation; CC Docket #96-45
Federal-State Joint Board on Universal Service

Dear Mr. Coltharp:

On behalf of the National Cable Television Association, Inc. ("NCTA"), and pursuant to our recent discussion, attached please find a memo explaining why universal service support for schools and libraries is not limited by the Communications Act to "eligible carriers."

Pursuant to §1.1206(a)(1) of the Commission's rules, two copies of this letter and the attached memo are being filed today with the Office of the Secretary.

Thank you for considering our views on this important issue. Please do not hesitate to contact me if we can be of further assistance.

Sincerely,

Neal M. Goldberg

NMG:tkb

Attachment

cc: William F. Caton
Acting, Secretary

National Cable Television Association

Neal M. Goldberg
General Counsel

1724 Massachusetts Avenue, Northwest
Washington, D.C. 20036-1969
202 775-3664 Fax: 202 775-3603

February 21, 1997

Ms. Mindy Ginsburg
Special Assistant to Bureau Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, D.C. 20554

Re: Ex Parte Presentation; CC Docket #96-45
Federal-State Joint Board on Universal Service

Dear Ms. Ginsburg:

On behalf of the National Cable Television Association, Inc. ("NCTA"), and pursuant to our recent discussion, attached please find a memo explaining why universal service support for schools and libraries is not limited by the Communications Act to "eligible carriers."

Pursuant to §1.1206(a)(1) of the Commission's rules, two copies of this letter and the attached memo are being filed today with the Office of the Secretary.

Thank you for considering our views on this important issue. Please do not hesitate to contact me if we can be of further assistance.

Sincerely,

Neal M. Goldberg

NMG:tkb

Attachment

cc: William F. Caton
Acting, Secretary

UNIVERSAL SERVICE SUPPORT FOR ACCESS TO ADVANCED SERVICES IS NOT LIMITED TO "ELIGIBLE CARRIERS"

Section 254(e) of the Communications Act provides that "only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support."[1] Incumbent local exchange carriers ("ILECs") argue that this limitation prevents non-carriers from receiving support for providing schools and libraries with access to advanced telecommunications and information services mandated by section 254(h)(2)(A). A review of the statutory language, however, demonstrates that section 254(e) is not applicable to section 254(h)(2)(A).

Section 254(e) is part of a carefully-structured scheme intended to limit eligibility for the universal service support provided in connection with basic telecommunications services. Congress sought to ensure that only carriers willing to provide basic services throughout a given area would qualify for basic service support. This limitation is applicable solely with respect to support for these basic services, however. Indeed, it is the offering of "services that are supported by Federal universal service support mechanisms under section 254(c)"[2] that defines an eligible carrier.[3]

The limited carrier-only eligibility under section 214(e) and 254(e) is not relevant to establishing eligibility for support under section 254(h)(2)(A). That section deals not with basic telecommunications services, but rather directs the Commission to establish "competitively neutral rules to enhance . . . access to telecommunications and information services" for schools, libraries, and health care providers.[4] Consistent with the mandate for competitive neutrality and the fact that "access to telecommunications and information services" is different from "telecommunications," the Joint Board correctly found that eligibility for support made available pursuant to section 254(h)(2)(A) should not be limited to telecommunications carriers.[5]

---

[1] 47 U.S.C. § 254(e). An eligible telecommunications carrier is one that, inter alia, provides those telecommunications services designated as universal service throughout a particular service area using its own facilities or a combination of its own facilities and resale of another carrier's services. See 47 U.S.C. § 214(e)(1).

[2] Section 254(c) establishes the principles for designating which telecommunications services will be defined as universal services. See 47 U.S.C. § 254(c)(1) ("Universal service is an evolving level of telecommunications services") (emphasis added).

[3] 47 U.S.C. § 214(e)(1)(A).

[4] 47 U.S.C. § 254(h)(2)(A) (emphasis added).

[5] Recommended Decision at ¶¶ 462-63.

Section 254(h)(2)(A) thus differs significantly from sections 254(e) and 254(h)(1)(B), which contemplate that telecommunications carriers will receive universal service support in connection with the provision of telecommunications services they provide.[6] Given that the Joint Board has proposed that support for access to advanced services be provided to schools and libraries rather than to carriers, the limitation in section 254(e) is particularly inapposite.

Because section 254(e) would otherwise permit only "eligible carriers" to receive universal service support in connection with the provision of telecommunications services, Congress created a specific exception to that section so that any carrier could receive support for discounted telecommunications services provided to schools and libraries under section 254(h)(1)(B).[7] By contrast, no such exemption is necessary in section 254(h)(2)(A) because this provision is not limited to the provision of telecommunications services by telecommunications carriers.

F1/63634.1

---

[6] 47 U.S.C. §§ 254(e), 254(h)(1)(B). When Congress wanted to limit advanced services obligations to carriers, it did so expressly. See id. § 254(h)(2)(B).

[7] See 47 U.S.C. § 254(h)(1)(B)(ii) (any telecommunications carrier providing discounted telecommunications services may receive reimbursement "notwithstanding the provisions of [section 254(e)]").