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October 7, 1998

The Honorable William E. Kennard  
Chairman  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: FCC CC Docket No. 98-146  
Inquiry Concerning the Deployment of Advanced  
Telecommunications Capability to All Americans

Dear Mr. Chairman:

As a financial institution with over \$20 billion of its own capital committed to the media/telecommunications industries, the new Bank of America (formerly NationBank and BankAmerica) stands fully behind the national initiative to deploy broadband networks as widely and quickly as possible. Our perception is that the Commission supports that position as well. We feel that it is imperative that we provide our comments on the referenced FCC action, specifically as it relates to the potential impact upon return of principal invested to date and future support by the capital markets of the companies deploying broadband networks.

The 1996 Telecommunications Act clearly positively impacted the ability of media/telecommunications companies to attract funding from the private and public capital markets to construct broadband networks. As you know, a wave of incremental investment in the development of broadband technology and deployment of broadband networks has resulted. Bank of America has committed billions of dollars of bank financing and acted as agent in the capital markets to raise multiples of that amount for the cable, telephone, wireless and satellite industries, to finance the broadband initiatives which are a central part of the business plans of companies in these sectors.

The cable industry has played a leadership role in the deployment of broadband networks, and Bank of America has played a leadership role in the financing of the cable industry's broadband initiative. It is important to realize that, in spite of this leadership position, cable's broadband network deployment is still at a relatively early and critical stage, with significant investment having been made, yet relatively little return achieved as yet. If the Commission were to reject the

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policies adopted by Congress and the Administration in 1996 in favor of outdated common carrier regulation of cable companies providing Internet services, it could cast a significant cloud over the willingness of lenders and investors to provide additional capital to these companies. One need only to have experienced the response of the capital markets to past regulatory actions in the communications industry to share this concern.

In recent months, investors in the capital markets have opportunities to invest in a wide range of companies across several communications industry sectors, all pursuing two-way broadband business strategies, and have proven to be bullish on the potential that those strategies represent. New regulatory burdens would be perceived by investors as a significant negative in the achievement of the business plans of new entrants into the two-way broadband arena. These regulatory burdens would seem particularly counterproductive for those new broadband service providers like cable which do not hold themselves out as "common carriers."

Bank of America for its own account and the investors with whom we have placed the securities of broadband service providers have made a substantial commitment to the cable industry in the implementation of its broadband initiative. We ask the Commission to join us in support of that initiative by reaffirming the course laid out by the 1996 Act and rejecting pressure to apply common carrier regulation to cable companies, where they offer Internet services.

We appreciate the Commission's consideration of our views on this matter.

Sincerely yours,



Phyllis B. Riggins  
Senior Managing Director

cc: The Honorable Susan Ness  
The Honorable Michael Powell  
The Honorable Harold Furchtgott-Roth  
The Honorable Gloria Tristani  
Ms. Magalie Salas, Office of the Secretary, FCC