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March 27, 2002

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, DC 20554

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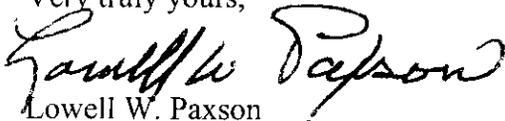
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: **Notification of Ex Parte Communication**
CS Docket No. 98-120 / _____

Dear Mr. Caton:

Pursuant to Section 1.1206 of the FCC's Rules, this letter is submitted, in duplicate, to advise you that on Monday, March 25, 2002, the undersigned met with Commissioner Michael J. Copps to discuss issues relating to programming on television, the adoption of a Code of Conduct for broadcasters and the relationship to the issue of digital multicast must carry for television stations. A summary of the PAX Digital Must Carry Proposal was provided to Commissioner Copps and the importance of full digital must carry for local broadcasters was summarized as follows: First, digital must carry for television stations was granted by Congress in the 1992 Cable Act. The FCC was simply left with the task of making whatever technical changes are necessary to ensure digital must carry and it has failed to do so after nearly four years of rulemaking. Second, the vast majority of broadcasters will not gain digital must carry through negotiations with cable operators. The television networks may reach agreements but the hundreds of television stations not owned by the four major networks will left at the mercy of cable without must-carry implementation. Third, all commercial broadcast stations are now planning their DTV construction; applications are on file at the FCC, plans are being finalized and equipment is being ordered, all on an FCC-mandated schedule. The FCC must not turn its back and require broadcasters to spend millions of dollars to upgrade their facilities without guaranteeing cable carriage in their markets.

Very truly yours,



Lowell W. Paxson
Chairman
Paxson Communications Corporation

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Enclosure

cc w/encl.: Commissioner Michael J. Copps
Paul Margie
John R. Feore, Jr.

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THE PAX DIGITAL MUST CARRY PROPOSAL

1. Television stations may elect to have their analog signals removed from the cable systems and replaced with their digital signals before the end of the digital transition. For the carriage of a digital signals, the main programming would be downconverted by the cable operator to analog and carried on the analog portion of the cable system on the same channel as the analog signal was carried. The remaining free multicast programming portion of the station's digital signal would be carried on the digital portion of the cable system served by the set-top digital boxes and would be used to deliver additional channels of free programming services only, compressed by cable operators into 3 or less MHz. All broadcast station signals should be contiguous to each other.
2. The station's primary digital signal when downconverted to the analog portion of the cable system will utilize 6 MHz of cable analog capacity. The remaining portion of the station's digital signal would be placed on the digital tier of the cable system and would require no more than 3 MHz of cable digital capacity. When a cable operator's digital set-top box penetration reaches 95% of its subscribers, the system could carry all of the broadcast station's signals on the digital tier only. Thus, a DTV station would only require, in the future, 3 or less MHz of a cable operator's digital capacity.
3. This digital must carry election would be applicable to cable systems with 750 MHz of capacity provided that the systems have installed digital head-ends and have digital set-top boxes. The downconverted digital signal (carried on the analog portion of the system) and the multicast digital signals (carried on the digital portion of the system) would be provided as part of the basic cable services provided to all analog cable subscribers and (for the multicast signals) to all basic subscribers with digital boxes. Thus, as digital set-top boxes are deployed by the cable operator, full digital must carry would occur.
4. This digital must carry option would be available on a first-come, first-served basis within the Communication Act's existing 33% cap on the use of cable systems activated channels for must carry purposes. A 750 MHz cable system is required by the 1992 Cable Act

to devote 250 MHz to local television signals. Under the PAX Digital Proposal, such cable system operating even in a market with 20 television stations would devote 120 MHz for the analog portion of the system and another 3 MHz per station ($20 \times 3 = 60$ MHz) on the digital tier for a total of 180 MHz – far below what the 1992 Cable Act requires be devoted to the carriage of such signals. The average market with 10 television stations would require only 90 MHz of a cable system's spectrum leaving 160 MHz, set aside by the FCC for broadcasters, to revert to cable for its own use.

5. All other aspects of the 1992 Cable Act, as it relates to must carry, would apply. Congress directed the FCC only to establish whatever technical changes are necessary in the carriage provisions of the 1992 Cable Act to ensure full cable carriage of broadcasters digital signals. Everything else the FCC has attempted to change in the must carry requests goes beyond this Congressional mandate. The PAX Digital Must Carry Proposal accomplishes what Congress intended and is faithful to the 1992 Cable Act as implemented by the FCC.