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DEPARTMENT OF INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS

11 Metrotech Center, 3<sup>rd</sup> Floor  
Brooklyn, NY 11201  
(718) 403-8076  
(718) 403-8508 (fax)

**GINO P. MENCHINI**  
Commissioner  
Chief Information Officer

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APR - 5 2002

**AGOSTINO CANGEMI**  
Deputy Commissioner  
Franchise Administration and  
Planning/General Counsel

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

April 5, 2002

**BY HAND DELIVERY**

William F. Caton  
Acting Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

EX PARTE OR LATE FILED

Re: **Ex Parte Notice:**  
WT Docket No. 02-55  
GN Docket No. ~~00-185~~, CS Docket No. 02-52

Dear Mr. Caton:

In accordance with Section 1.1206 of the Commission's Rules, 47 C.F.R. § 1.1206, the City of New York submits this notice of ex parte presentation. On April 3, 2002, the following persons representing the City of New York (collectively, the "City Participants") met with Commissioner Kevin J. Martin and three members of his staff (collectively, the "Commissioner"): Gino Menchini, Commissioner, Department of Information Technology and Telecommunications; Agostino Cangemi, Deputy Commissioner, Department of Information Technology and Telecommunications; Bruce Regal, Assistant Corporation Counsel, New York City Law Department; Inspector Thomas Gangone, New York City Police Department; Vincent LaPadula, Senior Advisor to the Mayor, Office of the Mayor, and Emma Bloomberg, Office of the Mayor. The discussion focused on two pending rulemaking proceedings at the Commission.

First, the City Participants discussed with the Commissioner issues raised in the cable modem service rulemaking proceeding (In the Matter of Inquiry Concerning High Speed Access to the Internet Over Cable and Other Facilities, Internet Over Cable Declaratory Ruling, Appropriate Regulatory Treatment for Broadband Access to the Internet Over Cable Facilities, GN Docket No. 00-185, CS Docket No. 02-52). The City Participants stated that the Commission should not attempt to prohibit cities from franchising cable modem service. Even if the Commission categorizes cable modem service as an "information service," the City Participants stated that such categorization does not permit the Commission to limit local franchising of such service. According to the City Participants, a contrary decision would face legal challenge, create uncertainty, and slow the rollout of cable modem service.

Quality Service Through Technology

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acangemi@dott.nyc.gov

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Fax: 718-403-8508

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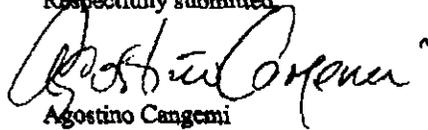
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Second, the City Participants discussed with the Commissioner issues raised in the 800 MHz public safety rulemaking proceeding ("Improving Public Safety Communications in the 800 MHz Band and Consolidating 900 MHz Industrial/Land Transportation and Business Pool Channels, WT Docket No. 02-55). The City Participants stated that any realignment of 800 MHz public safety spectrum should occur in a way that meets the City's public safety needs. The City Participants expressed concern that cities be held harmless from any additional costs resulting from any such realignment. Concerns were also expressed that the result of any such realignment be minimal interference with public safety communication activities.

Pursuant to Section 1.1206 of the Commission's Rules, the City of New York is filing one original and one copy of this letter with the Commission Secretary, as well as one copy with Commissioner Martin.

Please do not hesitate to contact me with any questions concerning this meeting or this notice.

Respectfully submitted,



Agostino Cangemi  
Deputy Commissioner  
Franchise Administration and Planning and  
General Counsel  
Department of Information Technology and  
Telecommunications

cc: Commissioner Kevin J. Martin