



City of Columbus
Mayor Michael B. Coleman

**EX PARTE OR LATE FILED
Department of Technology**

Jesse R. Jones, Director
90 W. Broad Street
Columbus, Ohio 43215-9008

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Notice of Proposed Rulemaking)) CS Docket No. 02-52
Appropriate Regulatory Treatment for))
Broadband Access to the Internet Over))
Cable Facilities))
_____)

REPLY COMMENTS OF THE CITY OF COLUMBUS, OHIO

These comments are filed by the City of Columbus, Ohio in support of the comments filed by the Alliance of Local Organizations Against Preemption (the "Alliance"). Like the Alliance, the City of Columbus, Ohio believes that (a) local communities should be able to require cable operators to obtain additional authorizations to use and occupy public rights of way to provide cable services, and to enforce existing authorizations that have been granted for the service; (b) should be able to obtain fair and reasonable compensation for use and occupancy of the public rights of way to provide non-cable services; and (c) should be able to regulate cable companies in their provision of non-cable services, as provided under the Cable Act.

These comments will also provide information regarding the status of cable modem service in our community.

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1. Our community and the status of cable modem service.

Columbus, Ohio is a city of 711, 470. It is served by three cable operators, Time-Warner Cable, Inc., Insight Communications, Inc. and WideOpenWest, which have a total of approximately 270,000 subscribers. The cable systems serving our community offer subscribers from 100 plus channels to well over 200 channels on systems ranging from 750MHz to 870MHz capacity. All three operators in our community offer cable modem service. The City estimates that over 37,000 of its citizens subscribe to cable modem service.

Director's Office
614/645-2550
FAX 614/645-2400

Information Services
614/645-7555
FAX 614/645-5444

Telecommunications
614/645-5928
FAX 614/645-5880

2. Our franchise and cable modem service.

Our franchise was issued in 1994 and did not directly address cable modem service. However, our franchise was written to permit the operator to provide both cable services and other services, as long as the operator complied with the franchise terms. We estimate that we will lose \$ 1.0 million in 2003 if we cannot charge a fee on revenues from cable modem service. This loss in revenue will increase by a growth rate estimated at 4% over the next five years.

Neither the franchise requirements or the fees have prevented or delayed the rollout of cable modem service in our community.

3. How we regulate cable modem service.

We receive complaints from customers regarding the services provided by cable operators. These complaints may include those about cable modem service as well as those about traditional video programming services. Responding to these complaints requires staff time and effort.

There are many unique customer service problems associated with cable modem services. In addition, it is often difficult, if not impossible to separate regulation of cable modem service from the regulation of cable service in many critical respects:

- Cable modem service is marketed jointly with cable service.
- A single bill is sent for cable modem and cable services, so billing complaints involve both.
- A customer may call a single location to schedule installation of cable service and cable modem service, and customer complaints about installations and missed appointments may relate to both services.

Under our franchise agreement the operator is also prohibited from discriminating against potential customers of cable modem services.

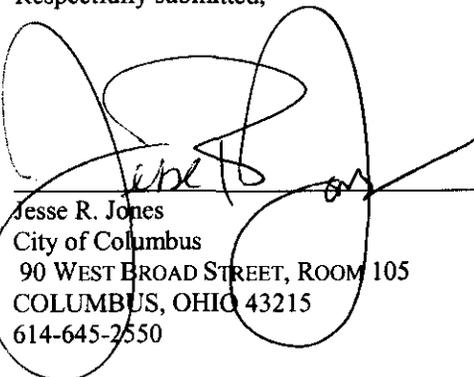
In our view, cable modem service is closely tied to cable video services and as such there is a need to protect consumers of cable modem service just as we protect traditional cable subscribers. For our citizens the local regulator and the source of redress is seen as the municipality.

4. Our community and broadband deployment.

Our community believes it is very important to encourage broadband deployment, and to encourage development of broadband applications. We also believe that in order to achieve the promise of broadband, broadband has to be available to the entire community, as far as possible. We want to avoid knowledge and opportunity gaps created because some parts of the community have access to broadband information, while others do not.

To that end, our community devotes significant resources to take advantage of the information highway and to extend its benefits to all. The City of Columbus supports an institutional network that connects city, county and state agencies, libraries, colleges and universities, as well as all K-12 schools. The City has developed fifty miles of fiber optic/coaxial network through the use of cable franchise fees, including those on cable modem services. In addition the City has used its cable franchise revenues to support public access, educational access and government access (PEG) cable television channels. The cable revenues also support the City's e-gov initiatives. The City of Columbus also plans to institute a 311 system in 2003. The funds that we obtain from cable modem franchise fees can help support these and other activities. If we lose those funds, it will be more difficult to protect consumers, to promote broadband deployment in this community and to provide for effective community access to information and critical dialogue.

Respectfully submitted,



Jesse R. Jones
City of Columbus
90 WEST BROAD STREET, ROOM 105
COLUMBUS, OHIO 43215
614-645-2550

Director of Technology /CTO/CIO for City of Columbus

[August 5, 2002]