



NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION

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May 7, 2003

EX PARTE

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: MB Docket No. 02-52

Dear Ms. Dortch:

On May 6, 2003, Daniel L. Brenner (NCTA Senior Vice President, Law & Regulatory Policy), Howard J. Symons (Mintz, Levin, Cohn, Ferris, Glovsky, and Popeo, PC) and I met with Jordan Goldstein and Jessica Rosenworcel from Commissioner Copps's office. We discussed issues and arguments set forth at length in NCTA's comments and ex parte letters in the above-referenced proceeding. In particular, we addressed and rebutted arguments raised by proponents of "forced access" and "network neutrality" requirements and provided the attached talking points.

Respectfully submitted,

/s/ Michael S. Schooler

Michael S. Schooler

cc: Jordan Goldstein
Jessica Rosenworcel

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**OPEN CONNECTIVITY FOR CABLE
INTERNET CUSTOMERS**

National Cable &
Telecommunications Association
April 18, 2003

- **Coalition of Broadband Users & Innovators (CBUI) have shown no evidence of harm: claims like “Interference (real or threatened) leads to less investment and innovation at the edges of the network” are belied by growth of websites and applications spurred by cable’s private investment in broadband**

- CBUI is essentially seeking broad regulation that:
 - Creates a common carrier regime where predicates are missing, no statute authorizes it and no need shown
 - Reverses 25 years of federal policy away from regulating in emerging markets
 - Will lead to heavy government involvement in the Internet when commercial interests make a claim of “interference”
 - Is essentially a business strategy that coincidentally sounds like healthy Internet “openness”

- There's no evidence of harm to justify regulation. Cable Internet customers can pick, choose, analyze or digest any content or run any applications via cable broadband connections.
- Cable Internet customers have unrestricted access to their choice of lawful Internet content and click-through access to any unaffiliated Internet Service Provider (ISP). Customers can set their home page to their preferred ISP or online content provider.

- Cable consumers can connect modem devices of their own choice to cable networks and can buy modems from retail outlets.
- Cable customers can use any gaming devices, like XBox or PlayStation, consistent with the usage provisions of their service plan and the technical limits of the network. And they can attach any computing device to their modems.