



**NCTA**

NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION

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September 25, 2003

Marlene H. Dortch, Secretary  
Federal Communications Commission  
455 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

**Re: Notice of Ex Parte Presentation**  
**MB Docket No. 02-52; CC Docket Nos. 02-33, 95-20, and 98-10**

Dear Ms. Dortch:

On September 24, 2003, Howard Symons of the law firm of Mintz, Levin, Cohn, Ferris, Glovsky & Popeo and I met with Julius Knapp, Geraldine Matise, and Jamison Prime of the Office of Engineering and Technology and John Spencer of the Wireless Telecommunications Bureau regarding matters in the above-captioned proceedings. Consistent with NCTA's earlier filings in MB Docket No. 02-52, we argued that the Communications Assistance for Law Enforcement Act ("CALEA") does not apply to broadband telephony service because such service has not been classified by the Commission as telecommunications service and because it is not a "replacement for a substantial portion of the local telephone exchange service" within the meaning of that phrase in section 102(8)(B)(ii) of CALEA. We also described the voluntary efforts of the cable industry, working with the FBI, to develop a new version of technical specifications to define how cable operators using the PacketCable® architecture may comply with CALEA. In view of the foregoing, we suggested that it was unnecessary and premature at best for the Commission to determine, for purposes of the application of CALEA, the legal classification of broadband telephony service in these proceedings.

Pursuant to section 1.1206(b)(2) of the Commission's rules, a copy of this letter is being filed electronically with the Office of the Secretary. A copy is also being served electronically on the Commission participants in the meeting.

Any questions regarding the foregoing may be directed to the undersigned.

Respectfully submitted,

/s/ **Neal M. Goldberg**  
Neal M. Goldberg

cc: Julius Knapp  
Geraldine Matise  
Jamison Prime  
John Spencer