May 5, 2004

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

Re: In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338;

Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98; and Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147.

Appropriate Regulatory Treatment for Broadband Access to the Internet over Cable Facilities, CS Docket No. 02-52

Re: In the Matter of Appropriate Framework for Broadband Access to the Internet over Wireline Facilities, CC Docket No. 02-33

Universal Service Obligations of Broadband Providers, CC Docket No. 02-33

Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements, CC Dockets Nos. 95-20, 98-10

Appropriate Regulatory Treatment for Broadband Access to the Internet over Cable Facilities, CS Docket No. 02-52

<u>Notice of Oral Ex Parte Presentation</u>

Dear Ms. Dortch:

On Monday, May 3, 2004 Peter Pitsch of Intel Corporation met with Christopher Libertelli, senior legal advisor to Chairman Michael Powell,

regarding the above referenced FCC proceedings. Intel has participated in those proceeding through the High Tech Broadband Coalition. In the course of the discussion, Mr. Pitsch made several points that are set out in previously filed HTBC pleadings and *ex parte* letters. He stated:

- The FCC already has done much to advance President Bush's recently announced national broadband goal, but expeditious action on the above referenced proceedings would represent substantial additional steps forward.
- HTBC remains supportive of the three modifications it proposed in its pleading filed in the Triennial Review proceeding in response to the petitions for reconsideration.
- The FCC should move forward on the Title I broadband proceedings employing three different legal theories. It could achieve a similar deregulatory result by relying, in the alternative, on theories that rest on information service, private carriage or forbearance rationales.
- Notwithstanding the *Brand X* decision, the FCC's well established authority to permit companies providing telecommunications to offer it under private carriage subject to Title I is unaffected. *Brand X* at n. 14.
- So while the court decision precludes the FCC from using Title I to define broadband services as an information service, the FCC can achieve the same result by allowing companies to operate under private carriage.
- This approach is consistent with HTBC's letter and principles filed with the Commission on September 25, 2003.

Pursuant to Section 1.1206(b) of the Commission's Rules, an electronic copy of this letter is being submitted to the Secretary's Office and to the above referenced person. Please inform me if any questions should arise in connection with this filing.

Respectfully submitted,

Peter K. Pitsch

cc:
Christopher Libertelli