

September 2000 FCC Issues a Notice of Inquiry on High Speed Access to the Internet over Cable and Other Facilities.

December 2000 and January 2001 National Association of Telecommunications Officers and Advisors (NATOA) files comments and reply comments

March 15, 2002 Internet Over Cable Declaratory Ruling ("Declaratory Ruling") and Notice of Proposed Rulemaking In the Matter of Appropriate Regulatory Treatment for Broadband Access to the Internet Over Cable Facilities (NPRM). FCC decided that cable modem service was neither a telecommunications service under Title II nor a cable service under Title VI.

April 2002 Alliance of Local Organizations Against Preemption (ALOAP) formed.

May 2002 ALOAP files petition for review of the Declaratory Ruling with the D.C. Circuit Court.

June and August 2002 MHCRC files comments along with many other local governments and national organizations

Summer 2002 ALOAP petition transferred to the 9th Circuit and consolidated with other petitions seeking review of the Declaratory Ruling, with Brand X as the lead case.

October 2002 and January 2003 ALOAP files its opening brief and reply brief

May 2003 Oral Argument

October 6, 2003 On Oct. 6, 2003 the 9th Circuit held that it was bound by its earlier panel decision in AT&T v. Portland to hold that cable modem service ("CMS") is (1) not a "cable service", (2) not a single integrated "interstate information service" without a separate "telecommunications service" component, & (3) contains a separate "telecommunications service" component.

November 19, 2003 ALOAP filed a Petition for Rehearing En Banc in the Ninth Circuit Court of Appeals.

March 31, 2004 The 9th Circuit denied the FCC's and ALOAP's petitions for rehearing *en banc*.

April 9, 2004 The 9th Circuit granted the motions of National Cable Television Association (NCTA), the FCC & the Department of Justice for a stay of the *Brand X* mandate until the later of (1) June 30, or (2) if a cert petition is filed, final disposition by the Supreme Court. Because the FCC's *Declaratory Ruling*, like the *Brand X* decision, held that cable modem service is not a "cable service" (the FCC decided that cable modem service was an "interstate information service" while the Court found cable modem service was a "telecommunications service."), the stay has little direct effect on local governments. It will, however, probably protect cable operators from state PUC efforts to regulate cable modem service as a "telecommunications service" until proceedings in the Supreme Court are resolved. The cable industry plans to file cert petitions. The Solicitor General/FCC may file cert. petitions. Cert petitions are due June 29.

June 29, 2004 Cert. petitions due at the Supreme Court

June 27, 2005 Supreme Court decides *Brand X* case.