Supreme Court last week rejected request of Palo Alto, Calif., to review district court decision holding that city’s cable franchising requirements were violations of cable operator’s First Amendment rights. Court said it lacked jurisdiction. Jurisdictional question stemmed from Palo Alto’s direct appeal to Supreme Court. Law allows direct appeal when lower court declares federal statute unconstitutional in proceeding in which federal government is party (Broadcasting, Dec 21, 1987). City contended that decision undermined constitutionality of Cable Communications Policy Act of 1984 and said Justice Department became involved in case when it gave court its views on Act’s constitutionality. In his September 1987 decision, District Court Judge Eugene Lynch held that provisions requiring cable system to provide leased and noncommercial access channels and universal service and to build and maintain a state-of-the-art cable system were violations of First Amendment. In earlier version, he declared that decision  undermined constitutionality of city’s determination to grant only one franchise.

NCTA urged Supreme Court last week not to take up federal appeals court decision generally affirming FCC’s “effective competition” standard. Standard says, in essence, that cable systems in communities served by three television stations are subject to effective competition. Under Cable Communications Policy Act of 1984, system subject to effective competition cannot be subjected to local rate regulation. Connecticut and several other parties had petitioned high court for certification.

FCC won’t make its annual appearance before Senate appropriations subcommittee that oversees agency as it usually does when Congress begins its budget process. Subcommittee is implementing new process. Because of time constraints, Chairman Ernest Hollings (D-S.C.), also chairman of Commerce Committee, is limiting number of agencies that will testify. Administration has recommended FCC receive $104.7 million for fiscal 1989. Subcommittee spokesman told Broadcasting that Hollings wanted to narrow hearings to “big issues.” Traditionally, subcommittee holds 60 to 80 hearings (this year they have scheduled six) before voting on appropriations package that includes funds for, among others, Commerce, State and Justice Departments as well as FCC, Federal Trade Commission and United States Information Agency. Like FCC, neither FTC nor USIA will address subcommittee. Idea of skipping an appearance before Senate was fine with FCC, commented an agency spokesman. It will be business as usual in House, which will hear from agency this Thursday, March 3.

Season to date, ABC, replete with its February winter Olympics coverage, continues its stronghold in second place in prime time household ratings. Nielsen figures supplied by ABC through Thursday night, Feb. 25, show following results: NBC, 16.3/27; ABC, 14.0/23, and CBS, 13.5/22. For first 13 days of prime time Olympic broadcasts, ABC averaged 19.2/30. Buoyed by Olympics, ABC is leading February sweeps in both Nielsen and Arbitron through Feb. 25 in Nielsen, which has its sweeps period from Feb. 4 to Mar. 2. ABC is on top with 17.2/27 followed by NBC 16.3/25, and CBS, 13.7/21. Arbitron’s ranking in sweeps, which runs from Feb. 3 through Mar. 1, is similar: ABC, 17.1/26; NBC 16.2/25 and CBS, 13.6/21.

Metropolitan Broadcasting, New York-based radio group operator reached agreement late last Friday (Feb. 26) to sell WOR, also New York-based radio group for $23 million cash. Morgan Stanley & Co. represented Metropol in sale.

Comparative renewal challenge of CBS O & O WBBM-TV was designated for hearing last week, after CBS motion to delay Center City Communicationschallenge (because of improper public notice), was denied. Motions to enlarge issues are due 3 days after publication in Federal Register (sometime next week). Center City will detail charges against station then FCC chie administrative law judge, Thomas B. Fitzpatrick, has designated AJL Joseph Stinner to hear case.

Picture on which will hold top board seats for NCTA following spring convention was coming into focus last week. It is now expect-