A Bush administration lawyer urged the Supreme Court to accept a 2002 Federal Communications Commission ruling that gave cable companies the right to bar rival Internet service providers from their lines, as the justices heard oral arguments yesterday in a case that could determine what choices are available to broadband subscribers.

Opponents of the FCC ruling, headed by Brand X Internet LLC, a California-based ISP, have said the ruling gives cable companies an unfair competitive advantage. Small Internet service providers are effectively denied the ability to compete on what has become the nation's most popular means of delivering broadband Internet access, with 18.5 million subscribers.

But Deputy Solicitor General Thomas G. Hungar told the court that the FCC's decision was a "reasonable" interpretation of the sometimes ambiguously worded 1996 Telecommunications Act and should therefore be upheld.

At issue is a seemingly arcane but legally crucial distinction between "information services," which are not subject to FCC regulation, and "telecommunications services," which are. As so-called common carriers, telecommunications services - ordinary land-line telephone systems are the best example -- face price controls and access rules.

Hungar said that, because cable service is basically another form of Internet access, the FCC had properly categorized it as an "information service" rather than a "telecommunications service."

A cable modem is no mere conveyor of electronic signals like a telephone, he argued, but is inextricably connected to data-processing capabilities.

Hungar's arguments reflected the FCC's emphasis under former chairman Michael K. Powell on speeding private-sector investment in new digital communications technologies.

But some members of the court appeared to give Hungar's case a cool reception.

"I just don't think it's a reasonable use of language," Justice Antonin Scalia told Hungar. Scalia said there was no clear distinction between the "telecommunications" aspect of cable modem service and the "information service" aspect.

The FCC, he said, is "doing it all on policy grounds. Definitions change depending on the policy outcome."

"No," Hungar replied. "It depends on the nature of the offering" to consumers made by cable modem operators. But Justice Sandra Day O'Connor said that was "peculiar."

The U.S. Court of Appeals for the 9th Circuit, based in San Francisco, struck down the FCC ruling in 2003,
and the commission appealed to the Supreme Court last year

Representing those opponents in court yesterday, Thomas C. Goldstein told the court that the FCC had committed a "legal error."

Its position would "render the definition of telecommunications services in the Internet era a dead letter," Goldstein said.

He added that the FCC could use its power to grant regulatory "forbearance," and not enforce the rule, if it felt it necessary to lighten the burden on cable modem service in any particular instance.

But Goldstein's approach did not seem to satisfy Chief Justice William H. Rehnquist, who noted that "apparently Congress wanted to go in the direction of deregulation."

Justice Stephen G. Breyer added: "I have no idea how broadband services will be delivered in the future . . . so why not leave it up to the FCC?"