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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Applications for Consent to the)
Transfer of Control of Licenses and)
Section 214 Authorizations from)
)
MEDIAONE GROUP, INC.,)
Transferor)
to)
AT&T CORPORATION,)
Transferee)

CS Docket No. 99-251

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To: The Commission

**SUPPLEMENTAL COMMENTS OF U S WEST, INC. IN RESPONSE TO
EX PARTE COMMENTS OF AT&T AND MEDIAONE**

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SUMMARY

AT&T's recent *ex parte* submission is yet another attempt to convince the Commission to establish a special set of attribution rules applicable only to AT&T, at the expense of 15 years of Commission precedent and policy regarding the treatment of limited partnership interests. Straightforward application of the recently amended rules clearly establishes that the merger cannot be approved without the imposition of significant conditions, aimed at addressing the competitive concerns raised by a host of parties to this proceeding with respect to application of the horizontal ownership cap required by Congress to the largest merger of cable MSOs the Commission has ever addressed.

AT&T has neither provided the amendment of its limited partnership agreement required by the Commission in all other cases of this kind, nor shed its extensive contractual relationships with the TWE cable systems under which Liberty and other entities provide a wide range of popular video programming services to these systems. AT&T has still failed to demonstrate why its ownership interests in these entities should not be attributed to it. Indeed, given AT&T's fiduciary duties to and extensive interrelationships with Liberty (as its wholly owned subsidiary) and their respective officers and directors and holders of AT&T common and Liberty tracking stock, any other conclusion would leave little of the Commission's ownership attribution rules intact. And Liberty's own description of its relationships with the program networks in which it invests makes clear, if prior experience did not, that it has a very "realistic potential" to use these extensive interests to affect the carriage decisions of the TWE systems. This potential now seems even greater in light of the reinitiation of AT&T's negotiations designed to "enhance [its] existing relationship with Time Warner." The Commission should

require AT&T to disclose the nature of any such “enhancement,” and condition any action in this proceeding on the right to review this matter following such disclosure.

Ultimately, AT&T’s position here is that the established rules do not apply to it, because of its promises of wholly unrelated benefits. That position invites the Commission down a very dangerous and unprincipled path that threatens the future stability of its most important multiple ownership policies. In order to preserve the meaningful competitive safeguards on cable horizontal ownership required by Congress in the 1992 Act, the Commission should decline AT&T’s invitation. Indeed, the Commission has already relaxed its rules to provide encouragement for cable operators to invest in new services; it should certainly not rewrite them again in the context of this merger proceeding.

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INTRODUCTION

The core issue posed by the Commission's supplemental inquiry is whether AT&T's 25.5% limited partnership interest in TWE (coupled with its 9% interest in TWE's general partner, Time Warner, Inc.) is attributable. If it is, then this merger would give AT&T cognizable interests in cable systems serving 45.8% of all MVPD subscribers, or 41.3% assuming that AT&T makes the divestitures that it represents will soon be forthcoming (and that should therefore be a condition of any approval of this transaction).^{2/} Even under the more generous 30% MVPD cap established by the Commission's recent amendment of the rules, AT&T's cable system ownership would thus be well in excess of the reasonable limits imposed by the Commission pursuant to congressional mandate.

AT&T's November 24 response to the Commission's inquiry is an effort to swim upstream against the overpowering current of 15 years of Commission precedent concerning attribution of ownership interests in limited partnerships, as well as the policy behind that precedent. That policy is to attribute all investments "that confer on their holders a degree of

^{2/} These percentages are calculated by adding AT&T's existing 21.143 million subscribers to MediaOne's 5 million additional subscribers (*see Ex Parte* Comments of AT&T Corp. and MediaOne Group, Inc. at 5, 8, filed in CS Docket No. 99-251 on Nov. 24, 1999 ("AT&T *Ex Parte*")) and to TWE's 11.15 million subscribers (*See Transfer of Control of FCC Licenses, MediaOne Group, Inc. to AT&T Corp.*, CS Docket No. 99-251, filed July 7, 1999, Exhibit B), and then dividing by 81.4 million total MVPD subscribers. *See AT&T Ex Parte* at 7; *Ex Parte* Submission, Dec. 2, 1999 (reporting Century transaction). The proposed divestitures would reduce AT&T's 21.143 million subscribers to 17.515 million. *Id.*

AT&T also has SMATV subscribers. *See Ex Parte* Letter from Stephen C. Garavito at 14 (filed Nov. 24, 1999). The Commission should require AT&T to clarify whether these SMATV subscribers are included in its subscribership figures.

influence or control such that the holders have a realistic potential to affect . . . programming decisions.”^{3/} Most of this precedent and policy has been set forth in the comments and petitions filed by U S WEST and others,^{4/} all of which AT&T continues to ignore. In the end, AT&T argues that the established attribution principles for limited partnership interests only recently reaffirmed by the Commission should now be ignored because AT&T is different from everyone else, and that there should be a special interpretation for AT&T. *See AT&T Ex Parte* at 21-22. This position -- that there can be a “rule for Monday, and another for Tuesday, a rule for general application, but denied outright in a specific case”^{5/} -- is a request for quintessentially arbitrary and capricious agency action. As the Commission has recognized, such special exceptions from attribution would also “ha[ve] significant ramifications in other cases.”^{6/}

^{3/} *Review of the Commission's Regulations Governing Attribution of Broadcast and Cable/MDS Interests*, Report and Order, MM Docket No. 94-150, FCC 99-207, ¶ 1 (rel. Aug. 6, 1999) (emphasis added) (“*Broadcast Attribution Order*”). *See also In the Matter of Implementation of the Cable Television Consumer Protection and Competition Act of 1992; Implementation of the Cable Reform Act Provisions of the Telecommunications Act of 1996; Review of the Commission's Cable Attribution Rules*, CS Docket Nos. 98-82, 96-85, FCC 99-288, ¶ 2 (rel. October 20, 1999) (“*Cable Attribution Order*”).

^{4/} *See* Petition of U S WEST to Deny Applications or to Condition Any Grant (Aug. 23, 1999), at 8-9 (“U S WEST Petition to Deny”); Reply of U S WEST to Reply Comments of AT&T and MediaOne at 13 (Sept. 29, 1999) (“U S WEST Reply”). *See, e.g.*, Consumers Union, Consumer Federation of America and Media Access Project, Reply to Opposition to Motion to Dismiss, filed Sept. 2, 1999, at 2-3.

^{5/} U S WEST Reply at 17 & n.62, quoting *Frozen Foods Express, Inc. v. United States*, 535 F.2d 877, 880 (5th Cir. 1976) (internal quotation omitted), and *Adams Telecom v. FCC*, 38 F.3d 576 (D.C. Cir. 1994).

^{6/} *See Twentieth Holdings Corp.*, 4 FCC Rcd 4052, 4054 ¶¶15-17 (1989).

I. AT&T STEADFASTLY REFUSES TO COMPLY WITH THE BASIC INSULATION REQUIREMENTS ESTABLISHED BY THE COMMISSION FOR LIMITED PARTNERS.

Since 1985, the Commission has made very clear that the interest of a limited partner in a limited partnership is attributable, unless the limited partner makes a certification that *the limited partnership agreement (or certificate of limited partnership)* contains seven very specific insulating criteria.^{7/} The Commission's recent cable attribution order has again reaffirmed this principle as governing the rules at issue here.^{8/} Notwithstanding U S WEST's prior invitations to do so,^{9/} AT&T refuses to amend its limited partnership agreement to guarantee the existence of contractually enforceable limitations on its participation in the video programming activities of TWE. Until and unless it does so, AT&T's substantial equity interest in TWE would be attributable.

II. IN ANY EVENT, AT&T'S CABLE PROGRAMMING SERVICES PROVIDED TO TWE'S CABLE SYSTEMS MAKE AT&T'S INTEREST IN TWE ATTRIBUTABLE.

AT&T's certification could not pass muster in any event, because it concedes that Liberty, MediaOne, Rainbow, and Viewer's Choice all provide programming to the TWE cable systems in which AT&T would hold this substantial equity interest. As AT&T finally now grudgingly acknowledges, the Commission has recently reconfirmed that "a contractual arrangement to provide programming . . . would be inconsistent with the insulation criterion that

^{7/} U S WEST Reply at 15.

^{8/} *Cable Attribution Order* at ¶ 64. AT&T's prior position that these established attribution principles are somehow applicable only to broadcasters is thus now untenable, and AT&T has apparently abandoned it. *See* U S WEST Reply at 12-14.

^{9/} U S WEST Petition to Deny at 8-9; U S WEST Reply at 15-17.

‘the limited partner may not perform any services for the partnership materially relating to its media activities.’”^{10/} None of AT&T’s efforts to distance itself from this fact succeeds. Indeed, AT&T’s arguments concerning its purported insulation from TWE appear to be flatly inconsistent with its own “strategic rationale” for the MediaOne acquisition as presented to the “investment community,” which has emphasized the “business opportunity” to “enhance [its] existing relationship with Time Warner.”^{11/}

1. AT&T first repeats its argument that Liberty is “economically distinct” and “operationally independent” from AT&T, its 100% parent^{12/}. AT&T *Ex Parte* at 18. This argument, if accepted, would leave little of the Commission’s attribution rules intact. It also ignores the very real fiduciary obligations and interrelationships between AT&T and Liberty and their respective officers, directors, and holders of tracking stocks.

AT&T makes no effort to address U S WEST’s demonstration concerning these obligations and interrelationships. U S WEST Reply at 6-11. It ignores the Commission’s rejection of the separation argument in applying the program access rules to Liberty. *Id.* at 6. It ignores the “preferred vendor status” between Liberty and AT&T. *Id.* at 7. It ignores the AT&T Policy Statement, which subordinates any of AT&T’s separation commitments to its obvious

^{10/} AT&T *Ex Parte* at 19-21 (quoting Commission’s recent *Broadcast Attribution Order*). The Commission’s conclusion in this regard should not have been surprising to AT&T. As U S WEST has noted, the Commission had reached the same result in the analogous context of its prohibition on dealings between a trustee and its beneficiary for attribution purposes. *See* U S WEST Reply at 17-18 & n.63. AT&T has never addressed those Commission precedents.

^{11/} AT&T *Ex Parte*, filed December 2, 1999, at 4.

^{12/} *Tele-Communications, Inc.*, 14 FCC Rcd 3160, ¶ 35 (1999): “Liberty Media will be a wholly-owned subsidiary of AT&T.”

“fiduciary duties to AT&T and all of its shareholders.” *Id.* at 7-8. It ignores AT&T’s approval rights over substantial Liberty borrowings. *Id.* at 8 n.16. It ignores AT&T’s right to appoint three of Liberty’s nine directors for the next seven years. *Id.* at 9. It ignores the fact that Liberty’s Chairman is not only a director of AT&T but also its largest shareholder. *Id.* It ignores Liberty’s contractual right to have a director on the AT&T Board who will “understand and reflect issues of concern to the Liberty Media Group.” *Id.* at 10. It ignores the incentives of Liberty’s six directors who hold AT&T stock representing a present market value of \$1.7 billion, and unknown numbers of AT&T stock options. *Id.* at 10-11. And AT&T continues to decline to provide information about the full extent of common ownership of AT&T common stock and Liberty tracking stock. In short, as others have pointed out, AT&T continues to play Liberty like a yo-yo, spinning it out for the regulators and pulling it back to suit its fiduciary duties to its own shareholders.^{13/} The plain fact is that Liberty is a wholly owned subsidiary of AT&T, and that its Liberty tracking shares “remain subject to the risks associated with all the businesses, assets and liabilities of [the] parent corporation.”^{14/}

^{13/} *Consumer Groups Say AT&T-MediaOne Is Bad for Consumers*, Communications Daily, Aug. 18, 1999, at 2: “Liberty has been spun out and back so much its corporate logo should be a yo-yo.” Of course, a bona fide spinoff of Liberty -- as a wholly unaffiliated company -- would be a different matter. But AT&T has refused to answer in any forthcoming way the Commission’s questions about such a possibility. *AT&T Ex Parte*, filed Nov. 24, 1999, at 1 (responses to Commission’s question on tax consequences of spinoff).

^{14/} U S WEST Reply at 8 (quoting Professor Hass). For all of these reasons, AT&T’s offer not to communicate with Liberty with respect to programming for TWE fails to address the fundamental problem that Liberty *is* AT&T. Thus, nothing under the offer proposed by AT&T would prevent Liberty from advancing AT&T’s interests by making use of its increased programming leverage to influence TWE to exclude new programmers, particularly those that compete with Liberty. Nor does AT&T’s offer address its ability to communicate with Liberty about the sale of programming to TWE’s competitors.

2. Next, AT&T argues that the provision of cable programming to TWE by Liberty (and by MediaOne, and by Rainbow, and by Viewer's Choice) does not make AT&T's substantial equity investment in TWE cognizable, because "Liberty sells very few programming services *directly*."^{15/} The short answer is that insulation is unavailable for limited partners that are materially involved "directly *or indirectly*" in the management or operation of video-programming-related activities of the partnership in which they invest.^{16/} AT&T is no different in this regard from Capital Cities/ABC, in the example cited by the Commission in its recent broadcast attribution order, whose television programming network (like Liberty) was operated through a wholly owned subsidiary.^{17/}

AT&T also asserts that Liberty's programming interests (and those of MediaOne, in Rainbow and in Viewer's Choice) "are controlled by and managed by other entities."^{18/} This allegation is both factually and legally inadequate. First, AT&T's claim is wholly unsupported by any factual showing. Indeed, Liberty's most recent SEC filing identifies its ownership interests in Encore and Starz! programming as 100%, and its interest in Court TV and certain Fox Sports

^{15/} AT&T *Ex Parte* at 19 (emphasis in original).

^{16/} *Cable Attribution Order* at ¶ 64 (emphasis added).

^{17/} The Capital Cities/ABC discussion in the Commission's recent broadcast attribution order also supersedes the *BBC* and *Quincy Jones* decisions relied on by AT&T. See *Broadcast Attribution Order* at ¶ 133. See also *BBC License Subsidiary, Inc.*, 10 FCC Rcd 7926 (1995); *Application of Quincy D. Jones*, 11 FCC Rcd 2481 (1995). Both of those decisions were expressly conditioned on the outcome of the broadcast attribution proceeding described above. And both of them involved in any event the very different attribution principles applicable to the more established and uniform rights of equity holders in *corporations*, not limited partnerships -- in one case because the relevant entity was a corporation, and in the other because the Commission determined for unique reasons to treat it as one.

^{18/} AT&T *Ex Parte* at 18, 20.

channels as 50%.^{19/} AT&T's argument would fail for this reason alone, because these are significant cable networks that it controls and makes available to TWE. But Liberty also notes that its minority ownership interests in other cable networks do not necessarily correspond to its voting rights.^{20/} In fact, it has represented in SEC filings that its managerial role in all of its cable programming networks is extensive:

We seek to add considerable value to our subsidiaries and business affiliates through our strategic, operational and financial advice. To ensure Liberty can exert significant influence over management where we own less than a majority voting interest in a business affiliate, we often seek representation at the board of directors level and contractual rights that assure our participation in material decision making. These contractual rights will typically include participation in budget decisions, veto rights over significant corporate actions and rights of first refusal with respect to significant dispositions of stock by management or strategic partners.^{21/}

This representation is significant, because Liberty's additional interests in Discovery, Animal Planet, The Learning Channel, and The Travel Channel are 49%; its interest in QVC is 43%; its interest in BRAVO is 37%; its interest in BET and BET on Jazz is 35%; its interest in Odyssey is 32.5%; and its interest in USA Network, Home Shopping Network, and the Sci-Fi Channel is 21%.^{22/}

^{19/} Liberty Media Corp., Amendment No. 2, SEC Form S-4A, at 46, 59 (Nov. 4, 1999) ("Liberty SEC Form S-4A"). *See also* Appendix D, Table D-1, "MSO Ownership in National Video Programming Services," in *Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming*, 13 FCC Rcd 24284, 24429 (1998) ("Fifth Annual Report").

^{20/} Liberty SEC Form S-4A at 1.

^{21/} *Id.* at 43. For example, Liberty has the right to appoint two members of QVC's board. *Id.* at 52.

^{22/} *Id.* at 48-60. *See also* Fifth Annual Report, Appendix D.

Moreover, the question here is not whether Liberty controls these programmers (though if it were, Section 309(e) of the Act would require a hearing on this issue of fact).^{23/} It is whether these program networks provide Liberty, as a TWE limited partner, with an avenue for communicating its programming preferences to the TWE cable systems -- *i.e.*, "a degree of influence . . . such that [Liberty] ha[s] a realistic potential to affect [TWE's] programming decisions."^{24/} Liberty's active participation in the management and operation of Encore, Court TV, Fox Sports, Discovery, QVC, BET, Odyssey, and USA -- networks critical to the success of TWE cable systems in attracting and retaining viewers -- provide it with a powerful vehicle for such potential influence.

One example should suffice to prove the point. In 1991, Lifetime sought to acquire The Learning Channel. At this time, the Chairman of Liberty announced that none of the TCI cable systems -- which accounted for as many as one-third of the channel's total subscribers - - would carry The Learning Channel if that acquisition went forward. Lifetime abandoned its plans, the price of The Learning Channel plummeted by approximately \$8 million, and Discovery

^{23/} See 47 U.S.C. § 309(e). For example, Liberty's 49.3% interest in the networks operated by Discovery equals that of the next two largest shareholders combined. The remaining 1.4% interest is held by John Hendricks, whom Liberty rescued from bankruptcy in 1986. Liberty SEC Form S-4A at 48; Donovan Webster, *John Hendricks Wants a Piece of Your Brain*, Washington Post Sunday Magazine, May 23, 1993, at 6, available in 1993 WL 2190382. The extent to which Liberty and Mr. Hendricks constitute a control group, and the extent of Liberty's ability (formally or informally) to direct or veto the latter's actions, would be factual issues that would need to be resolved in a hearing to ascertain whether Liberty controls Discovery for these purposes.

^{24/} *Broadcast Attribution Order* at ¶ 1. See also *Cable Attribution Order* at ¶ 2. The same analysis would be applicable to the programming interests AT&T has or would have through MediaOne, Rainbow, and Viewer's Choice.

proceeded to acquire it.^{25/} The question before the Commission here is whether there is a “realistic potential” that Liberty could use its valuable programming interests to influence TWE, as well as AT&T and MediaOne cable systems, as a means of enforcing such a threat again. There can be little doubt of that potential.

3. AT&T then suggests that the Capital Cities/ABC example involved “the vast majority” of a station’s programming, whereas here Liberty, MediaOne, Rainbow, and Viewer’s Choice comprise only “a relatively small percentage of the total programming carried over TWE’s cable systems.”^{26/} Here again, AT&T provides no evidence to support this assertion, and no indication of what it means by “a relatively small percentage.” The Commission has concluded, however, that the supply of only 14.5% of a station’s programming represents “a significant portion” of its schedule, triggering attribution for purposes of the analogous restrictions on trustee relationships.^{27/}

Here, the question would be whether the relationship would amount to “material involvement” in TWE’s video programming activities.^{28/} Attached is the channel lineup for Manhattan Cable, selected as a representative TWE cable system. Following its merger with MediaOne, AT&T would have interests in the following channels on that system, which

^{25/} Washington Post Sunday Magazine, May 23, 1993, at 18, 1993 WL 2190382. *See also* Johnnie L. Roberts, *Cable Cabal: How Giant TCI Uses Self-Dealing, Hardball To Dominate Market; Top Officials Are Enriched as Firm Buys Up Systems and Blocks TV Rivals*, Wall St. J. January 27, 1992, at A1, available in 1992 WL-WSJ 662361.

^{26/} AT&T *Ex Parte* at 22.

^{27/} *Twentieth Holdings Corp.*, 4 FCC Rcd at 4054 ¶ 13 n.9.

^{28/} *Cable Attribution Order* at ¶ 64.

obviously include a number of its most highly attractive offerings: TV Guide, Discovery, USA Network, E! Entertainment, Fox Sports New York, MSG, MSG 2, BET Network, BET on Jazz, Sci-Fi Channel, Bravo, Starz!, The Travel Channel, Animal Planet, QVC, and Court TV. To assert that this portion of Manhattan Cable's channel lineup is not material is to blink reality.

4. After all the smoke has cleared, AT&T ends up saying that it is different from all other cable companies, all television stations, all radio stations, all newspapers, and all other media outlets that have long been governed by these same attribution principles, because its merger "may bring benefits to the public, such as cable broadband and telephony services and competition to the incumbent local exchange carriers or Internet."^{29/} As Chairman Kennard cautioned only last week, "you can't trade competition for speculative promises that someone may roll out advanced services."^{30/} AT&T's argument admits of no limitation, because what AT&T is asking the Commission to do is to avoid an "overly narrow" -- for which one must read "consistent" -- interpretation of the attribution rules simply to achieve AT&T's asserted, wholly unrelated benefits.^{31/} But the short answer is that, purely in order to serve the goal of competition in other markets identified by AT&T here, the Commission has *already* modified the rule to permit a nonattributable limited partner to confine its insulation solely to the "video programming" activities of the partnership's cable systems.^{32/} What AT&T is really saying is

^{29/} AT&T *Ex Parte* at 22, quoting *Cable Attribution Order* at ¶ 63.

^{30/} See *CALLS Plan Could Face Congressional Scrutiny*, *Communications Daily*, Dec. 10, 1999.

^{31/} AT&T *Ex Parte* at 23.

^{32/} *Cable Attribution Order* at ¶ 64.

that this concession is just not good enough. But that is the “balance” that the Commission chose to “strike,”^{33/} and the question whether the Commission should have implemented different rules is obviously not relevant here.^{34/}

III. IN ANY EVENT, NO APPROVAL COULD BE GRANTED WITHOUT CONDITIONS.

For the reasons stated above, if this merger does not implicate the Commission’s horizontal cap rules, there will be little left of them -- and little left of the attribution policies that govern both the cable and broadcast ownership rules. AT&T’s response makes this problem worse by noting that it “cannot anticipate at this time how its relationship with TWE might in the future change.” AT&T *Ex Parte* at 4-5. This suggestion is all the more troubling in light of last week’s confirmation by AT&T’s Chairman that AT&T and Time Warner have renewed their previous negotiations.^{35/} Consistent with 47 C.F.R. § 1.65, the Commission should direct AT&T to amend its application if, as he predicts, AT&T “secure[s] a final agreement [with Time

^{33/} Multichannel News, Dec. 13, 1999 at 140 (remarks of Deborah Lathen).

^{34/} In any event, consideration of cable broadband and telephony effects of this merger would not be an unalloyed blessing by any means. Because the insulation requirements are limited to “video programming” activities, AT&T presumably would argue that they do not extend to arrangements with TWE to extend AT&T’s discriminatory access policies to TWE’s 11.15 million subscribers who may be offered high speed Internet access. *See* Communications Daily, Dec. 8, 1999 (AT&T Broadband President “leading negotiations with Time Warner for broadband tieup: ‘We have great relationships with Time Warner’”). The threat this merger poses to the policies of technological neutrality embodied in Section 706, in light of the extensive loop unbundling, collocation, line sharing, and other obligations imposed on TWE’s ILEC competitors, would be substantial. *See* U S WEST Reply at 19-24.

^{35/} Rebecca Blumenstein & Nicole Harris, *AT&T Meets Analysis, Boosts Goals for Revenue, but Stock Doesn’t Respond*, Wall St. J., December 7, 1999, at A3. Indeed, as discussed above, it appears that implementation of this “strategic rationale” for the merger is well underway. *See* AT&T *Ex Parte*, filed December 2, 1999, at 4.

Warner] before the closing” on this transaction.^{36/} Moreover, given the importance of the nature of the TWE relationship to any Commission determination concerning compliance with the horizontal cap, any grant of these applications should include a requirement that the parties seek prior Commission approval, following public comment, with respect to any material modification to the limited partnership agreement or relationship. See *Quincy Jones*, 11 FCC Rcd 2481, 2486 ¶ 27.^{37/}

Similarly, AT&T asserts that “it is premature to determine whether any representatives which AT&T might appoint” to the TWE Board “would meet the standard for a waiver of attribution” with respect to Board representation. Thus, AT&T says, it will tell the Commission who these representatives will be “at the appropriate time.” AT&T *Ex Parte* at 25. This unsupported suggestion is equally inappropriate, given the importance of the nature of this relationship to the application of the rules.^{38/} The Commission should condition any grant on prior approval, after public comment, of the identity of these proposed directors.

^{36/} *Id.*

^{37/} This is not a case, like *News International*, 97 FCC 2d 349, 366-67 ¶ 36 (1984), in which it was only the size and not the nature of the investment that might have changed in the future. Nor, like that case involving a broadcast station, is it possible to consider any changes “at renewal time.” AT&T *Ex Parte* at 5 n.8.

^{38/} *Cf. Storer Communications, Inc. v. FCC*, 763 F.2d 436 (D.C. Cir. 1985).

CONCLUSION

For the reasons stated above, this transaction would place AT&T in violation of the newly revised horizontal ownership cap. Any grant should be conditioned on a requirement of coming into compliance promptly upon the lifting of the Commission's present stay of that rule.

Respectfully submitted,



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I, Josh L. Roland, HEREBY CERTIFY that on the 14th day of December, 1999, I caused true and correct copies of the foregoing Supplemental Comments of U S WEST in Response to *Ex Parte* Comments of AT&T and MediaOne to be served either by hand* or by first-class mail, postage prepaid, on the parties on the attached service list:


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| 08 |  | Original programming, movies, comedies and sports |
| 09 | WWOR
(UPN) | Local independent station |
| 11 | WPIX
(WB) | New York's WB network station |

- 13** **WNET** Local Public Broadcasting station (Newark, New Jersey)
- 21** **WLW2** PUBLIC TELEVISION Long Island PBS with news, vintage films, documentations comedies
- 25** **WNYE** Instructional and community television, ethnic programming and cultural events
- 25**  Earn a college degree through affiliated colleges (So. Manhattan & Brooklyn/Queens only)
- 27** **ONfn** Financial news: Monday through Friday 7am - 7pm CNN International: Saturday and Sunday 6am - 9am
- 30** **VALUE VISION** One of the country's largest shopping channels offering jewelry, houseware and more. (Southern Manhattan only)
- 31** **WPXN** Business reports coverage and children's shows
- 34**  Manhattan Neighborhood network non-commercial and community produced programming
- 35** **VARIED PROGRAMS** Leased access, ethnic, music and variety. May contain sexually explicit content after 10pm. If you do not wish to view these programs, please contact us
- 38** **C-SPAN** Cable Satellite Public Affairs Network: live sessions of the House of Representatives
- 39** **C-SPAN2** Live gavel-to-gavel coverage of the U.S. Senate
- 41** **WXTV** Independent station with Spanish language programming and featuring UNIVISION
- 47** **WNJU** TELEMUNDO NETWORK. Spanish language programming and more
- 50**  Cooking shows to suit every taste and lifestyle, plus restaurant reviews reports
- 51**  The day's program listing of every channel, plus reviews and health reports

55  Long Island community news and programming, family films, drama and comedy

56  Manhattan Neighborhood network non-commercial and community produced programming

57  Manhattan Neighborhood network non-commercial and community produced programming

65 **WMBC** Ethnic and Information programming covering a variety of topics

67  Manhattan Neighborhood network non-commercial and community produced programming

68  The convenience of shopping at home for a variety of products

69  Select from a wide variety of high quality merchandise at attractive discounts

71 **crosswalks** An additional channel of the municipal television channel of the city government. For info call 212 669 7400

73 **crosswalks** An additional channel of the municipal TV station of the city government. For info call 212-669-7400

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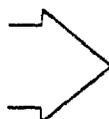
75  CUNY-TV on Crosswalks: The cable television station of the City University of New York

76  Time Warner Cable's local NYC news channel, 24 hours a day

Click here for ~~online ordering~~ of our basic service!

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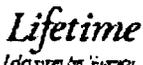


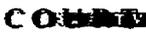
Northern Manhattan Channel Listing

If only all standards were this high. An extraordinary program package with over 60 channels including Discovery Channel, CNN, Comedy Central, AMC, MSG and the History Channel.

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- 03  Critically acclaimed original productions, sports, family entertainment
- 06  The bigger idea in kid's TV. Plus classic TV on Nick at Nite
- 10  Breaking news, informative and documentary programming
- 12  A woman's magazine of health, style, fitness, family and entertainment
- 14  Quality family entertainment offering an array of children's fare and family programming
- 15  Live business and financial information, plus interviews and news
- 16  Intriguing mysteries, dramatic literary adaptations, engaging documentaries and more
- 17  The greatest moments of all time, in documentaries, films and original programs

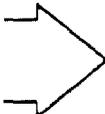
- 18**  Explore your world through science, technology, history and wildlife documentaries
- 19**  The world of music, through videos, rock retrospectives, interviews and fashion
- 20**  Pop, hip-hop, classic and cutting-edge videos, music news and original shows
- 22**  The world's first 24-hour animation station: original and classic cartoons
- 23**  The cure for the common show: action, mystery, comedy, films and original series
- 24**  Hollywood behind-the scenes, celebrity interviews, fashion and entertainment news
- 26**  Local team action with the Mets, Islanders, Nets plus sports updates
- 27**  Yankees, Knicks, Rangers, wrestling, boxing, tennis, college school sports
- 28**  The total sports network for every season, everything from basketball to auto racing
- 29**  Extreme sports from all over, including cliff diving, roller hockey
- 30** **MSG 2** MSG2: Special New York City sports events from the madison Square Garden Network. (Northern Manhattan Only)
- 36**  Continuous national, regional and local weather forecasts
- 37**  A whole day's news every half hour, every day
- 40**  Experts explain trials to help guide viewers through these important court cases
- 42**  Music, entertainment, news and sports from the African American perspective

- 43  The world-class reporting of NBC News combined with Microsoft technology
- 44  Science Fiction, fantasy and the supernatural, featuring series, films and originals
- 45  The best of stand-up, sketch comedy, original animation and favorite films
- 46  2-hour breaking news, politics, sports consumer, entertainment and business updates
- 52  Devoted to personal growth and education through specials about science and technology
- 53 *Galavisión* Spanish television, featuring news, movies, sports and variety shows for all ages
- 53 MSG 2 MSG2: Special New York City sports events from the madison Square Garden Network. (Northern Manhattan Only)
- 54  The 24-hour cable network devoted to the Golden Age of Hollywood
- 64  Features award-winning films, live performances and unique artist perspectives
- 64  Everything for your home and garden 7am - 11am
- 70  A guide to the best of New York
- 72  Travel news, information, reviews and entertainment
(NORTHERN MANHATTAN ONLY)

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Northern Manhattan Channel Listing

11 more channels chosen by our customers. Our ultimate entertainment value and New York's newest sensation. Tune in to channels such as TV Land, Animal Planet, Turner Classic Movies, ESPN Classic and Independent Film Channel.

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(Just \$9.95 a month with the purchase of Basic Service only)*

81



The showcase for American independent cinema, uncut and commercial-free

82



Over 350 movies every month, uncolorized and commercial-free.

83



CNN Illustrated team up to deliver sports news and analysis

84



The greatest games biggest names in sports

85



Classic TV! Comedies, dramas, rarities and vintage commercials

86



All animals all the time! Entertaining programs of fascinating programs on fascinating creatures

87



Visual arts from all over the world. (Daily 7pm-7am)

87



Commercial-free education for kids. (Daily 7am-7pm)

88



Travel news, information, reviews and entertainment

89



All that jazz, all the time. International festivals, live performances

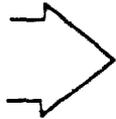
93

crosswalks

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New movies every week, plus award-winning original comedy shows, concert performances, kids' programming and more. It's not TV it's HBO. Click here to see what's on HBO!



Different movies every night of the week - over 170 a month! Get the total cinematic experience - big blockbusters to small independent films - right here. click here to see what's on Cinemax!



Hollywood hits & powerful original films, Championship boxing and few surprises.



100% pure movies. 100% pure fun. A non-stop movie experience with daily movie marathons from a variety of movie genres. click here to see what's on The Movie Channel!



Programs for the whole family - classic animated films, new cartoons, music specials, learning series and original shows. click here to see what's on Disney Channel!

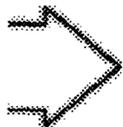


Adult Programming
Daily 10pm - 6am (Brooklyn/Queens)
7pm - 6am (South/North Manhattan)



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