

April 25, 2000

Magalie Roman-Salas
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554



Re: Notice of *Ex Parte* Presentation
CS Docket No. 99-251
Merger Application of AT&T & MediaOne

Dear Ms. Salas:

In accordance with Section 1.1206(b)(2) of the Commission's rules, this letter memorializes a meeting pertaining to Docket 99-251 on April 24, 2000, between Andrew Jay Schwartzman and Harold Feld of Media Access Project (MAP) and Commissioner Gloria Tristani and her legal advisor, Sarah Whitesell. MAP also represents Consumers Union (CU) and Consumer Federation of America (CFA) in this matter.

At the meeting, MAP representatives addressed the following issues:

1. On April 11, 2000, MAP filed a motion to consolidate the AT&T/MediaOne and AOL/Time Warner merger dockets. MAP asked for prompt and favorable action thereupon.
2. On October 7, 1999, MAP filed a complaint against AT&T for repeated violations of the certification requirement of 47CFR §76.503. On April 14, 2000, MAP filed a motion requesting that the Commission refer this pending complaint to the Enforcement Bureau. MAP representatives renewed this request and urged the Commission to act quickly thereupon.
3. MAP representatives also complained about misuse of the "permit but disclose" rules in the context of this proceeding. In particular, they noted that AT&T and MediaOne have filed numerous notices of oral *ex parte* communications which lack the requisite disclosure as to the substance discussed at those meetings but instead merely consist of one or two sentence references to the topic of the discussion without reference to the details discussed. As an example, they pointed out that several recent *ex parte* meetings indicated that provisions of the Time Warner Entertainment Co., LP (TWE) partnership were discussed, but that there was no basis to understand which aspects of that agreement were under discussion, and why.
4. MAP representatives stated that the April 18, 2000 *ex parte* submission of AT&T and MediaOne offering new conditions to insulate MediaOne's TWE interests do not even begin to address concentration concerns posed by the merger. The proposed conditions

are unenforceable, in that it is utterly unrealistic to preclude the relevant parties from collaboration, or to know when such communications take place. The proposals arguably violate the First Amendment. Moreover, the precedent thereby established would result in perhaps scores of similar requests, particularly from broadcasters.

5. MAP representatives provided a copy of a passage from the TWE's March 30, 2000 SEC Form 10K. The passage refers to a provision of the TWE partnership agreement. The publicly filed *ex parte* notices in this docket provide no basis for knowing what AT&T and MediaOne may have said about this provision to FCC staff and members, but if there is an intent to employ this provision during the period of any such waiver the Commission may give to AT&T, no such intent has been stated in any formal or informal written submission to the FCC.
6. MAP expressed general support for the concerns about program access raised in this docket by Seren Innovations, Inc. and other parties.

Sincerely,

Andrew Jay Schwartzman
President/CEO

cc. Commissioner Tristani
Sarah Whitesell