

June 2, 2000

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



RE: *Notice of Ex Parte Presentation*  
*CS Docket 99-251*  
*AT&T/Media One Acquisition*

Dear Ms. Roman-Salas:

This letter memorializes three separate June 1, 2000 telephone conversations relating to CS Docket 99-251 involving Andrew Jay Schwartzman of Media Access Project. Mr. Schwartzman spoke to David Goodfriend, Legal Assistant to Commissioner Ness, Marsha MacBride, Senior Legal Assistant to Commissioner Powell, and Helgi Walker, Senior Legal Assistant to Commissioner Furchgott-Roth.

In each of these conversations, Mr. Schwartzman renewed his clients' objection to the wholesale procedural abuses evident in the record in this case. He noted that the public record lacks any showing that AT&T needs more than six months to achieve compliance with FCC rules. If the Commission has been told by the Wall Street investment community that it would take longer, there is nothing on the record about such communications, or the identity of who may have made such a presentation. Mr. Schwartzman warned that this shortcoming in the record was but one of the bases on which appeals of a waiver decision would be based.

Mr. Schwartzman then explained that his clients believe that it is contrary to the public interest to allow AT&T the option of restructuring its relationship with Liberty Media instead of divesting MediaOne's partnership interest in Time Warner Entertainment, LP ("TWE"). Leaving aside the validity of the Commission's recent amendments to the ownership rules, (which is subject to his clients pending appeal), he also stated that allowing AT&T to retain any ownership stake in TWE, however conditioned, would invite the same abuses which led to the enactment of the 1992 Cable Act.

As to AT&T's claim that additional time is needed to permit it to convert its TWE partnership interest into a corporation and conduct an IPO, Mr. Schwartzman noted that the public record lacks any showing as to why this cannot be done within six months. The Commission's waiver policies require a particularized factual showing. The public record suggests that AT&T evidently would prefer to do this by exercising a contractual right which

permits it to initiate such a conversion after January 1, 2001. It is antithetical to the public interest for the government to intercede to provide an advantage to one party to a private sector contractual negotiation.

Mr. Schwartzman repeated that it is grossly unfair to his clients that there is no record that AT&T has so argued, or as to what it may have actually said to justify that claim. Even absent full disclosure of what AT&T may have said in secret and undisclosed meetings, Mr. Schwartzman said it is clear that AT&T has failed to show that it has asked Time Warner to consent to initiating that process immediately upon closing. This is an essential element of any waiver request.

Mr. Schwartzman discussed FCC ownership policies. They are tailored to each service. For example, newspaper cross-ownership policies require a showing that no buyers are available, and that a forced sale would realize a depressed price. TV satellite waivers similarly require a showing that the station cannot operate as a standalone, and there is no purchaser willing to operate it as such.

In the case of AT&T's proposed acquisition of MediaOne there is a clearly available option of conducting an IPO; by definition, such a transaction would not be a "fire sale," as AT&T appears to argue, because that process would realize a full market price, would not result in a windfall to a buyer, and would send appropriate signals to the marketplace. To the extent that Time Warner may call upon AT&T to offer additional consideration in exchange for accelerating the date of an IPO, this is simply a cost of the transaction, not unlike breakup fees, "golden parachutes," premiums for early retirement of debt, etc.

There is, Mr. Schwartzman concluded, no basis in law to tolerate a serious breach of the Commission's ownership rules without a clear factual record that the necessary divestiture cannot be completed at a fair market price within the normal time limits.

Sincerely,

Andrew Jay Schwartzman  
President and CEO

cc. David Goodfriend  
Marsha MacBride  
Helgi Walker