



Publisher of Consumer Reports

Magalie Roman-Salas
Secretary, Federal Communications Commission
4445 12th Street, SW
Washington, DC 20554

March 19, 2001

Re: Notice of *Ex Parte* presentation in CS Docket No. 99-251

Dear Ms. Salas:

Pursuant to Section 1.1206(b)(2) of the Commission's rules, this letter describes an informal discussion on April 4, 2001, between Gene Kimmelman (Co-Director, Washington office of Consumers Union, or CU) and Chairman Michael Powell.

In that discussion, Mr. Kimmelman asked the Chairman about seeking en banc rehearing of the court's recent decision in *Time Warner v. FCC (D.C. Cir., March 2, 2001)*, reversing and remanding the Commission's cable horizontal ownership rules. Mr. Kimmelman urged the Chairman to go forward and made the argument that they had misread the statute and legislative history on diversity, and that he had a strong basis for seeking rehearing based on the different standard the same circuit had applied on a First Amendment challenge to rate regulation.

Sincerely,

Chris Murray
Telecommunications Counsel
Consumers Union