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March 20, 2006

Samuel Feder  
General Counsel  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

RE: Docket 05-192

Dear Mr. Feder:

We are writing to ask you to conduct an inquiry into possible violations of the Commission's *ex parte* rules in the above-shown "permit but disclose" docket.<sup>1</sup> We represent a number of citizen groups and other groups concerned with local access rights in this proceeding, which involves the acquisition of Adelphia's cable systems by Time Warner and Comcast.

According to a number of press reports, on March 17, 2006, the Chairman held a press briefing in which he implied that he had been asked to defer action on the Adelphia matter at the request of certain of the parties. For example, *Broadcasting and Cable* reported that

In his first press conference as FCC chairman (a day short of his first anniversary in the job), Kevin Martin suggested that the pace of the Adelphia merger review, now in its 286th day, was the product of conversation with the parties involved. Martin would not address the merger specifically, but said that in merger review cases, the FCC "in each case works closely with the parties in front of us on the timing on how important it is to get through to the parties themselves. We try to be responsive to the parties and the time frames they end up having."<sup>2</sup>

As you know, the Commission's *ex parte* rules specify that communications relating to the preferred timing of Commission action are "presentations" within the meaning of the Commission's rules.<sup>3</sup> The Chairman's statement suggests that he has

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<sup>1</sup>*Adelphia Communications Corp, Debtor-In-Possession, et al., Pleading Cycle Established*, 20 FCCRcd 10051 (2005) (affording permit but disclose status).

<sup>2</sup>*Adelphia, Ownership Await Fifth Commissioner*, <http://www.broadcastingcable.com/index.asp?layout=articlePrint&articleID=CA6316913> (accessed March 20, 2006).

<sup>3</sup>47 CFR §1.1202(a) provides in pertinent part that "[A] status inquiry..., which states why timing is important to a particular party or indicates a view as to the date by which a proceeding should be resolved, or which otherwise is intended to address the merits or outcome or to influence the timing of a proceeding is a presentation."

received communications relating to the Adelphia case in which one or more parties has expressed views as to when they hope the proceeding will be resolved and the importance of such a time frame. However, our review of notices of *ex parte* presentations submitted by the various parties to Docket 05-192 has not identified any presentation by any party which disclosed communications specifying any “time frame” for completion of the proceeding, or the importance of such timing.

The *ex parte* rules are vitally important to maintaining public confidence in the integrity of the Commission’s processes. Strict compliance and enforcement is particularly important to citizens groups and newly emerging competitors. Having limited resources, these groups are unable to attend frequent meetings with FCC members and staff, and are therefore especially dependent on knowing when other parties have made presentations to Commission and staff, as well as the content of such presentations.

Accordingly, we ask that you conduct and expedited inquiry into this possible violation and obtain suitable disclosures as may be required in sufficient time for other parties to have a meaningful opportunity to comment on any previously undisclosed communications.

Sincerely,

/s/

Andrew Jay Schwartzman

/s/

Harold Feld

*Counsel to Free Press, et al., NHMC and NATOA*

cc. Chairman Kevin Martin  
Legal Counsel Fred Campbell  
Associate General Counsel Joel Kaufman  
Assistant General Counsel Patrick J. Carney