

March 23, 2006



Marlene H. Dortch  
Secretary  
Federal Communications Commission  
TW-A325  
445 Twelfth St., SW  
Washington, DC 20554

Re: *Notice of Ex parte* presentation in WB Docket No. 05-192

Dear Ms. Dortch:

On March 21, 2006, Harold Feld of Media Access Project met with Jordan Goldstien and Jessica Rosenworcel with regard to the above captioned proceeding.

The conversation largely recapitulated arguments made in previous filings by Media Access Project on behalf of its clients. With regard to conditions on regional sports programming, Mr. Feld urged Mr. Goldstien and Ms. Rosenworcel to request from staff a copy of the unredacted confidential filing by MAP on February 23, 2006, as the material cited therein demonstrates the impact of withholding regional sports programming, applicants' awareness of this impact, and the strategies that result from this awareness.

With regard to a question on what would be the "most important" conditions, Mr. Feld stressed that Free Press, *et al.* continued to believe the merger should be remanded for a hearing or, in the alternative, that all the conditions proposed by Free Press, *et al.* should be granted. As a bare minimum, however, the following would help mitigate the harm to the public interest from the increased regional and national concentration resulting from the merger:

1) Network neutrality conditions that (a) recognized the right of every user to attach any device to the network that did not damage the network, and that Applicants not be permitted to use their newly acquired market power to require non-interoperability with other devices or applications users may wish to run; (b) that the Commission require that VOIP, video and other rival services that use broadband not be subject to any kind of "tiering" that would make delivery of these services more expensive or degrade the quality of service of these rival services; and (c) an expedited complaint process so that incidents such as the blocking of afterdowningst.org are resolved swiftly, because such blocking interferes with time sensitive speech or discredits competitive services with subscribers.

2) A "leased access" condition which made it financially feasible for independent

programmers such as MASN or the America Channel to reach viewers – either by setting a standard price or by requiring some kind of expedited arbitration. Mr. Feld pointed to the recent creation of the Video Access Alliance<sup>1</sup> as evidence that there is both interest in leased access and that such a condition would alleviate market power of the Applicants over independent programmers.

3) An expedited complaint process for “unilateral renegotiation” of public access obligations by the Applicants.

4) An expedited complaint process for violation of the program access rules or other violations of existing rules.

In accordance with Section 1.1206(b) of the Commission’s Rules, 47 C.F.R. § 1.1206, this letter is being filed with your office. If you have any questions, please do not hesitate to contact me.

Respectfully Submitted,

Harold Feld  
Senior Vice President

cc:  
Jordan Goldstien  
Jennifer Rosenworcel

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<sup>1</sup><http://videoaccessalliance.org/>