

April 20, 2006



Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: Notice of Ex Parte Presentation
Docket 05-192 (Adelphia Proceeding)
Docket 05-255 (12th Annual Report on Video Competition)

Dear Ms. Dortch:

On April 20, 2006, the undersigned ("Mr. Schwartzman") met with Commissioner Deborah Taylor Tate, her Legal Assistant, Aaron Goldberger, and her Senior Advisor for Policy, John Grant.

Mr. Schwartzman made the following points with respect to the proposed assignment and/or transfer of control of Adelphia Communications Corporation licenses:

- The primary purpose of the transaction is to promote regional concentration of ownership. The post-transaction HHI will be over 1900, which is to the detriment of the public interest, especially with respect to a concentration in a media market.
- Increased regional concentration is contrary to the public interest, and does not confer any public interest benefits, much less justification for grant of the pending applications.
- The fact that Adelphia will have new ownership is not a public interest benefit justifying grant of this application, as the same would be true if any of the other actual or potential bidders for Adelphia had prevailed in the auction. Moreover, the completion of the TWE divestiture is not a benefit attributable to this transaction, as the parties have long been under a Commission mandate to do precisely the same thing.
- Because the proposed transaction will diminish diversity in video programming markets and erect barriers to entry for new broadband and video competition, grant of the applications would impair the public's First Amendment rights to have access to diverse sources of information.
- Increased regional concentration has a particularly negative impact on the ability of local franchising authorities and citizens to insure service to their communities and to enforce franchising and customer service requirements.
- Among the remedies to ameliorate the adverse impact of the proposed transaction are improved and mandatory commercial leased access, closing the so-called terrestrial loophole for sports and VOD programming, non-discriminatory broadband open access for Comcast and extension of the open access provisions in the AOL/ Time Warner consent decree.

There was additional discussion about the history of leased access, during which Mr.

Schwartzman made reference to *ValueVision International v. FCC*, 149 F.3d 1204 (D.C. Cir. 1998), *NAIPTD v. FCC*, 516 F.2d 526 (2d Cir. 1975) and Lampert, *Cable Television: Does Leased Access Mean Least Access?*, 44 FCLJ 245 (1992). Subsequent to the meeting, Mr. Schwartzman emailed copies of comments filed in Docket 05-255 on behalf of AIVF, *et al.* and CDD, *et al.* to Messrs. Goldberger and Grant.

Sincerely,

/s/

Andrew Jay Schwartzman
President and CEO

cc. Commissioner Tate
Aaron Goldberger
John Grant