

October 10, 2000

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



**Re: Notice of *Ex Parte* presentation in
CS Docket No. 00-30
*Application for Merger of AOL and Time
Warner***

Dear Ms. Salas:

Pursuant to Section 1.1206(b)(2) of the Commission's rules, this letter memorializes a meeting held on October 5, 2000, between Harold Feld, Associate Director, Media Access Project (MAP), Jeffrey Chester, Executive Director, Center for Media Education, and William Jay Freedman, Senior Legal Advisor to Commissioner Tristani. Due to the intervening Jewish religious holiday, this notice was unfortunately filed late.

Mr. Feld and Mr. Chester urged Commissioner Tristani to use the AOL Time Warner merger as the prelude to a national policy on open access. "Open access" should include not merely a choice of ISPs, but open access to all potential bottleneck facilities, such as Instant Messaging and set-top boxes. Mr. Chester expressed concern that set-top boxes offered unlimited discriminatory potential unless included in an open access condition.

Mr. Feld and Mr. Chester also asked about the "term sheet" reported in the newspapers to have been given to independent ISPs by Time Warner in response to requests to interconnect. Mr. Freedman stated that he did not have a copy of the term sheet, and had requested that staff secure a copy.

Mr. Freedman also stated that information on the following subjects would assist the Commissioner in assessing the need for conditions: (1) whether standard DSL connections available to consumers can carry video signals comparable to cable delivery; and, (2) any information on set-top boxes and why they should be considered a bottleneck facility

Sincerely,

Harold Feld
Associate Director

cc: William Jay Freedman
Jeffrey Chester