

October 3, 2000

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



**Re: CS Docket No. 00-30
CS Docket No. 99-251
Notice of *Ex Parte* Presentation
AOL-Time Warner Merger**

Dear Ms. Roman-Salas:

Pursuant to Section 1.1206(b)(2) of the Commission's rules, this letter memorializes a meeting on September 29, 2000, of Media Access Project (MAP) President Andrew Jay Schwartzman and Jeffrey Chester of the Center for Media Education with Commissioner Harold Furchtgott-Roth, his legal advisor Helgy Walker, and two other members of his staff, Julie Dunne and Deena Margolies.

Mr. Schwartzman addressed the scope of the Commission's public interest authority to address the kind of issues which have arisen in this case. Commissioner Furchtgott-Roth indicated he views the Commission's authority narrowly, not as a stop-gap. Mr. Schwartzman said he preferred to think of the Commission's public interest authority as "holistic."

In response to Commissioner Furchtgott-Roth's suggestion that the FCC doesn't address the basic business practices of airlines even though there are many FCC licenses transferred consequent to an airline merger, Mr. Schwartzman pointed to the fact that mass media companies raise different policy questions because they are transporting speech, not widgets. Recognizing that the Commissioner might view it differently, Mr. Schwartzman asserted what he called a "Madisonian" view of the First Amendment, under which government has a duty to help create a well-informed electorate, especially where (as here) cable systems and broadcast properties are integral to the electoral process, referring to Sections 312(a)(7) and 315 of the Communications Act.

Commissioner Furchtgott-Roth expressed vehement doubt as to whether James Madison would have wished to impose conditions on a merger coming before the FCC based on this type of authority.

The undersigned counsel regrets the short delay in submission of this letter necessitated by illness in the family which diverted his attention.

Respectfully submitted,

Andrew Jay Schwartzman

cc. Commissioner Furchtgott-Roth

Helgy Walker
Deena Margolies
Julie Dunne