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
AT&T - MediaOne Merger

Dear Ms. Roman-Salas:

Pursuant to Section 1.1206(b)(2) of the Commission's rules, this letter memorializes a meeting on Septmber 29, 2000, of Media Access Project (MAP) President Andrew Jay Schwartzman, Jeffrey Chester of the Center for Media Education, Mark Cooper Consumer Federation of America Research Director and Gene Kimmelman, Co-Director of Consumers Union's Washington Office with Kyle D. Dixon, Legal Advisor to Commissioner Powell. During this meeting, the following issues were raised pertaining to the above-captioned proceedings:

1. With respect to AOL's ownership interest in DirecTV, the attribution rules do not represent a "safe harbor." The Commission must make a fact-based determination that AOL-TW's level of influence is consistent with the public interest. The failure to require divestiture runs the risk of recreating conditions confronted in the Primestar cases.

2. The instant messaging, interactive television, and set-top box issues raised in this proceeding are very important, and the Commission needs to examine the concerns raised over the course of the proceeding.

3. Recent events underscore the Commission's error in failing to consolidate the AT&T/ MediaOne docket with this case and provides additional support for reconsideration in CS 99-251. In particular, information developed in the course of the AOL-TW merger demonstrates that the Commission needs to sever cross-interests link between AOL-TW and AT&T. For example, the Commission had not thoroughly examined the implications of interactive television in the AT&T/ MediaOne transaction. Unless the Commission assures a breakup of the AOL-TW/Liberty/AT&T cross-interests in TWE, there is a possibility that AOL will be able to achieve preferential access to AT&T systems even as it purports to open its own network to others. The recent Section 706 report developed by the Commission confirms that cable continues to widen the gap with DSL, making the basis for the Commission's decision to reject an open access condition suspect.

4. The AOL-TW "MOU" has proven to be an inadequate vehicle to assure open access. The Commission should explore the actual terms and conditions Time Warner has offered for providing internet access on its systems. In particular, the Juno agreement, which itself has not been implemented, is premised on a revenue sharing model which is antithetical to open access and diminishes incentives for innovation.

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. Kyle D. Dixon