

For Immediate Release

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**STATEMENT OF MEDIA ACCESS PROJECT REACTING TO
U.S. COURT OF APPEALS MEDIA OWNERSHIP DECISION**

Andrew Jay Schwartzman, President and CEO of Media Access Project, has issued the following statement in response to today's decision of the United States Court of Appeals in Philadelphia reversing the Federal Communications Commission's June, 2003 action which would have significantly deregulated broadcast media ownership rules:

This is a big, big win for diversity in the media. The Court has ruled in our favor on almost every issue in the case. The judges agreed with us that preserving democracy is more important than helping big companies grow bigger.

Perhaps the most important part of the decision is the Court's holding that the FCC improperly applied a presumption in favor of deregulation in its review of the broadcast media ownership rules. The Court's directive that the FCC take its deregulatory thumb off the scale virtually assures a different outcome when the FCC revisits the question in response to the Court's decision.

We won on almost every issue we raised. While the Court did uphold the FCC's authority to eliminate the current prohibition on new newspaper/broadcast cross-ownership, its remand to the FCC gives us the chance to prove that these limitations are necessary for local civic discourse.

Almost as important as what we won is what the big broadcasters didn't win. The Court decisively rejected claims that the FCC hadn't deregulated enough, and that the existing ownership scheme is unconstitutional.

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[BACKGROUND INFORMATION ABOUT MEDIA ACCESS PROJECT AND THE
COURT CASE ACCOMPANY THIS RELEASE]

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Background Information on Media Ownership Litigation
Prometheus Radio Project v. FCC



In *Prometheus Radio Project v. FCC*, a number of citizens groups and broadcasters have sought appellate review of the Federal Communications Commission's June 2, 2003 decision substantially liberalizing its broadcast media ownership rules. On September 3, 2003, the United States Court of Appeals for the Third Circuit in Philadelphia issued a stay which prevented the new rules from being enforced pending the outcome of the litigation.

The case began in 2002 as the FCC's responded to a Congressional directive requiring a biennial review of all FCC ownership rules. (See links below for details.) While Prometheus and its supporters, including some broadcasters, challenge the FCC decision for being too deregulatory, the four major TV networks and many other TV and radio broadcasters have filed separate appeals contending that the FCC did not deregulate enough.

Prometheus, the lead petitioner, is a Philadelphia-based organization which seeks to assist the development of low power FM radio. Other petitioners include the National Council of Churches of Christ (based in New York) and the Media Alliance (based in San Francisco). Others siding with Prometheus include Capital Broadcasting Corp. of Raleigh, NC, the Consumer Federation of America, and the Office of Communication, Inc. of the United Church of Christ. Trade associations representing TV network affiliate filed a separate appeal challenging the FCC's decision allowing the networks to acquire additional television properties; legislation signed by President Bush in January, 2004, has largely resolved this aspect of the case by partially rolling back the FCC's decision.

The three-judge panel hearing the case consists of Chief Judge Anthony Scirica, Judge Thomas Ambro and Judge Julio Fuentes. Losing parties can appeal the Third Circuit's decision to the full membership of the Third Circuit, or to the Supreme Court.

Prometheus is represented by Andrew Jay Schwartzman and Cheryl Leanza of the Media Access Project. Other counsel for citizen challengers are Angela Campbell, James Bachtell and Karen Henein of the Georgetown Law Center Institute for Public Representation and Glenn Manishin of Kelley Drye & Warren. Local counsel is Samuel L. Spear of Philadelphia-based Spear Wilderman Borish Endy Spear & Runckel.

The new decision is available at the Court's website:

<http://www.ca3.uscourts.gov>

Detailed Information on this case is available at Media Access Project's website.

Report on the oral argument held on February 11, 2004:

<http://www.mediaaccess.org/MAPOralArg02-12-04.pdf>

Overview of media ownership, and the specific FCC rules currently at issue:

<http://www.mediaaccess.org/programs/diversity/index.html>

Almost all of the briefs and other judicial filings in the case can be downloaded here:

<http://www.mediaaccess.org/programs/diversity/courts.html>

Text of the FCC's decision and the statements of the individual Commissioners:

<http://www.mediaaccess.org/programs/diversity/fcc.html#proceeding>

Background Information on Media Access Project



OVERVIEW

Media Access Project (MAP) was founded in 1972. It is a public interest law firm devoted to representing listeners' and speakers' First Amendment rights to in electronic media and telecommunications issues before the Federal Communications Commission, other policy-making bodies, and in the courts. MAP provides guidance and representation to scores of national and local non-profit groups annually. Its attorneys appear frequently in the press and at academic, legislative, and professional meetings to ensure that the needs of the public are not forgotten as policies are established for the next generation. MAP also actively reaches out as a coalition builder among other public interest organizations. MAP vigilantly monitors FCC and industry activity, alerting other groups and the public to proposed rules, new business practices, and important court decisions. According to the *National Journal*, MAP is "considered by some . . . dollar-for-dollar the best run public interest group in Washington."

HISTORY

MAP grew out of the movement that began with the landmark United Church of Christ litigation of the 1960s. Those cases, involving the failure of a Mississippi TV station to serve the Black community, established that members of the viewing and listening public have the legal right, derived from the First Amendment, to participate in FCC proceedings. In its early days, MAP's work implementing the FCC's fairness doctrine helped open TV networks to anti-war and civil rights activists.

STAFF

MAP is headed by its President and CEO, Andrew Jay Schwartzman, who has been a leader in public interest advocacy before the FCC for twenty-six years. The Wall Street Journal recently featured Schwartzman as a "no-frills fighter" who successfully obtained a temporary stay blocking new FCC media ownership rules in an earlier phase of *Prometheus Radio Project v. FCC*.

Media Access Project is a lean, efficient organization with a small staff of three attorneys including Schwartzman. His is assisted by two other attorneys, Deputy Director, Cheryl A. Leanza and Associate Director, Harold J. Feld.

FUNDING

Media Access Project does not generally charge fees for its services. It relies on foundation and individual grants for the bulk of its funding. Corporate contributions constitute about 10% of its receipts.

RECENT ACHIEVEMENTS

Media Access Project is a leader in public interest advocacy before the FCC and against it. Over the last five years, MAP has successfully lead the fight to establish a new, low power FM radio service; successfully overturned the FCC's effort to allow cable companies to control Internet content, and to establish ground-rules for a non-commercial set-aside on satellite television.