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December 29, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.—The Portals
TW-B204
Washington, D.C. 20554


**Re: America Online, Inc. Notice of *Ex Parte* Presentation
Applications of America Online, Inc. and Time Warner Inc.
for Transfers of Control, CS Docket No. 00-30**

Dear Ms. Salas:

On behalf of America Online, Inc. ("AOL") and Time Warner Inc., submitted herewith pursuant to Section 1.1206(b)(1) of the Commission's rules are two copies of the attached written *ex parte* presentation for filing in the above-referenced proceeding.

Kindly direct any questions regarding this matter to the undersigned.

Respectfully submitted,



Martha E. Heller

- cc: Deborah Lathen, Chief, Cable Services Bureau
- James Bird, FCC Assistant General Counsel, Office of General Counsel (w/attachment)
- Sherille Ismail, Deputy Bureau Chief, Cable Services Bureau (w/attachment)
- Royce Dickens, Deputy Chief, Policy and Rules Division, Cable Services Bureau (w/attachment)
- Darryl Cooper, Cable Services Bureau (w/attachment)
- Linda Senecal, Cable Services Bureau (w/attachment)
- International Transcription Services, Inc. (w/attachment)

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December 29, 2000

BY HAND

Ms. Deborah Lathen
Chief, Cable Services Bureau
Federal Communications Commission
445 12th Street, S.W.—The Portals
Washington, D.C. 20554

Re: America Online, Inc. and Time Warner Inc.
Notice of Written *Ex Parte* Presentation
Applications of America Online, Inc. and Time Warner Inc.
for Transfers of Control, CS Docket No. 00-30

Dear Ms. Lathen:

On behalf of America Online, Inc. ("AOL") and Time Warner Inc., this letter responds to an *ex parte* filing submitted by RCN Telecom Services, Inc. ("RCN") in the above-referenced proceeding on December 15, 2000.¹ In its submission, RCN requests that the FCC initiate an inquiry into RCN's allegation that AOL may have prematurely assumed control over Time Warner operations. Because RCN's claims simply have no basis in fact or FCC precedent, they should be rejected by the agency.

¹ Letter from William L. Fishman of Swidler, Berlin, Shereff, Friedman, LLP, to Deborah Lathen, CS Docket No. 00-30, dated December 15, 2000. See also Letter from Scott Burnside, Senior Vice President Regulatory & Government Affairs, RCN, to Magalie Roman Salas, CS Docket No. 00-30, dated December 21, 2000.

Ms. Deborah Lathen
December 29, 2000
Page 2

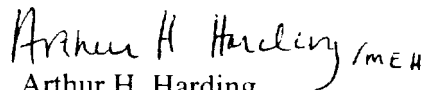
In fact, Time Warner management, reporting to the Board of Directors duly elected by Time Warner shareholders, remains fully in control of Time Warner Inc. and its licensed facilities. The only evidence that RCN offers in support of its claim of a premature transfer of control is an article noting that Robert Pittman, AOL's president and chief operating officer, has been making use of Time Warner office space in New York. RCN offers absolutely no evidence that Mr. Pittman has assumed control over Time Warner's daily operations or policy determinations, that he or any other AOL employee in any way dominates the management of Time Warner's corporate affairs and licensed facilities, or that there exists any of the indicia of a premature transfer of control that RCN itself cites. Rather, Mr. Pittman simply has participated, along with other AOL and Time Warner officials, in the parties' collective efforts—wholly consistent with applicable law—to achieve a smooth integration of the two companies after closing. RCN's request for the agency to begin an inquiry on this basis is utterly without merit and, accordingly, should be rejected by the Commission.

Kindly direct any questions regarding this matter to the undersigned.

Respectfully submitted,



Peter D. Ross
Counsel for
America Online, Inc.



Arthur H. Harding
Counsel for
Time Warner Inc.

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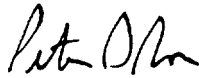
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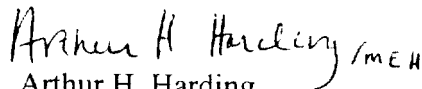
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