

1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000

EX PARTE OR LATE FILED

Peter D. Ross
(202) 719-4232
pross@wrf.com

Fax: (202) 719-7049
www.wrf.com

January 8, 2001

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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, DC 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. ("Time Warner"), submitted herewith pursuant to Section 1.1206(b)(2) of the Commission's rules are an original and one copy of this notice regarding a permitted oral ex parte presentation in the above-referenced proceeding. On January 5, 2001, Richard Parsons, President, Time Warner Inc., George Vradenburg III, Senior Vice President, Global and Strategic Policy, for AOL, Steven N. Teplitz, Vice President, Telecommunications Policy, for AOL, Richard E. Wiley of Wiley, Rein and Fielding and the undersigned spoke with FCC Chief of Staff Kathryn C. Brown, Karen Edwards Onyeije of Chairman Kennard's office, Michelle Ellision of the Office of General Counsel and Bureau Chief Deborah Lathen of the Cable Services Bureau.

The parties inquired about the status of the agency's review of the above-referenced proceeding. The applicants also addressed issues regarding AOL and Time Warner Inc.'s commitment to provide consumers with a choice of multiple Internet service providers ("ISPs"), particularly the ability of the Commission to rely on the parties' consent decree with the Federal Trade Commission to address any concerns regarding the offering of a diversity of unaffiliated ISPs over Time Warner cable systems.

The parties also addressed IM interoperability and how the FCC could rely on any number of potential marketplace developments that will serve to confirm that a merged AOL Time Warner will hold no irreversible position in any "market" that encompasses "advanced IM" services, as indicated in AOL's December 19, 2000 and December 21, 2000 *ex partes*. Moreover, as detailed in AOL's September 29, 2000 *ex parte*, FCC intervention on IM interoperability would require an unprecedented assertion of FCC regulatory authority over information services. Even in attempting to assert ancillary jurisdiction, the Commission still must demonstrate a nexus to an express grant of

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Ms. Magalie Roman Salas

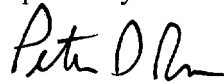
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authority under Titles II or III of the Communications Act in order to validate the jurisdictional exercise. As previously explained, no such jurisdictional nexus exists for IM. In particular, Section 230(b)(2) of the 1996 Telecommunications Act provides no such authority and, to the contrary, expressly mandates an Internet “unfettered by Federal or State regulation.”

Kindly direct any questions regarding this matter to the undersigned.

Respectfully submitted,



Peter D. Ross

cc: Kathryn C. Brown, FCC Chief of Staff
Karen Edwards Onyeije, Chairman Kennard's Office
Deborah Lathen, Chief, Cable Services Bureau
James Bird, Assistant General Counsel, Office of General Counsel
Michelle Ellision, Deputy General Counsel, Office of General Counsel
Sherille Ismail, Deputy Chief, Cable Services Bureau
Royce Dickens, Deputy Chief, Policy and Rules Division, Cable Services Bureau
Linda Senecal, Cable Services Bureau
International Transcription Services, Inc.