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Wiley, Rein & Fielding

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1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000
August 18, 2000

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

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

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: America Online, Inc. and Time Warner 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 August 17, 2000, representatives of AOL and Time Warner met with David Goodfriend of Commissioner Ness's office.

Attending the meeting on behalf of AOL were Steven N. Teplitz, Senior Director of Telecommunications Policy; Mario Vecchi, Vice President for Technology; and the undersigned. Representing Time Warner was Catherine R. Nolan, Vice President, Law and Public Policy.

The purpose of the meeting was to offer background information and respond to inquiries on technical issues regarding ISP service in general and the cable broadband platform in particular. Specifically, the discussion focused on the following:

- The use of network caching to reduce network transmission costs for delivery of frequently accessed content and to offer potential enhancement in subscriber performance (albeit less significant a differentiating factor in the experience of high-speed Internet access users);
- The use of firewalls as a tool to block offensive content and hacking;
- Emerging technology that can allow routers to enhance the quality of service over broadband networks by distinguishing among and prioritizing classes of service

No. of Copies rec'd 012
List A B C D E

Ms. Magalie Roman Salas
August 18, 2000
Page 2

(e.g., streaming, voice, email), while not representing a practical threat of discrimination between individual sources of content;

- How any future technology that might allow subtle disfavoring of individual content sources would likely burden network performance and cost, drive away subscribers, and undermine the essential value an ISP such as AOL offers consumers;
- How AOL has pursued its fundamental interest in and incentive to optimize each subscriber's ready access to whatever content he or she seeks;
- AOL's industry-leading record in web performance; and
- The FCC's prior express consideration of the same technical discrimination concerns raised in *AT&T/Media One* regarding exclusive ISP offerings over the cable broadband platform (¶ 112), and the Commission's ruling that "growing competition from both alternative broadband providers and unaffiliated ISPs gaining access to cable and other broadband networks indicates that any action taken by the merged firm to disfavor unaffiliated content and applications providers is likely to threaten the network's ability to attract and retain customers." *In the Matter of Applications for consent to the Transfer of Control of Licenses and Section 214 Applications from MediaOne to AT&T Corp.*, Memorandum Opinion and Order, CS Docket No. 99-215, ¶ 123 (Rel. June 6, 2000)

Kindly direct any questions regarding this matter to the undersigned.

Respectfully submitted,



Peter D. Ross

cc: David Goodfriend, Legal Advisor to Commissioner Ness
James Bird, FCC Assistant General Counsel
Royce Dickens, Deputy Chief, Policy and Rules Division, Cable Services Bureau
Linda Senecal, Cable Services Bureau
International Transcription Services, Inc