

ORIGINAL  
*Wiley, Rein & Fielding*

ORIGINAL

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

Wayne D. Johnsen  
(202) 719-7303  
wjohansen@wrf.com

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

December 1, 2000

**BY HAND**

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

RECEIVED  
DEC 1 2000  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

EX PARTE OR LATE FILED

**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") (collectively, the "Applicants"), 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 *ex parte* presentation in the above-referenced proceeding. On November 30, 2000, representatives of AOL and Time Warner met, in person or via telephone, with members of the Commission's staff to review a variety of issues raised in this proceeding. Participating on behalf of AOL were George Vradenburg, III, Senior Vice President, Global and Strategic Policy; Steven N. Teplitz, Vice President, Telecommunications Policy; and Richard E. Wiley and Peter D. Ross of Wiley, Rein & Fielding. Representing Time Warner was Catherine R. Nolan, Vice President, Law & Public Policy, Time Warner Inc. The following FCC personnel participated: Deborah Lathen, Chief, Cable Services Bureau ("CSB"); Sherille Ismail, Deputy Bureau Chief, CSB; Royce Dickens, Deputy Chief, Policy and Rules Division, CSB; Michele Ellison, FCC Deputy General Counsel; James Bird, FCC Assistant General Counsel; Robert Pepper, Chief, Office of Plans and Policy ("OPP"); Gerald R. Faulhaber, FCC Chief Economist, OPP.

No. of Copies rec'd 0+1  
List A B C D E

Ms. Magalie Roman Salas  
December 1, 2000  
Page 2

The discussion addressed the Applicants' commitment to provide consumers with a choice of multiple Internet service providers ("ISPs") over Time Warner cable systems and how this can be ensured with contractual and private enforcement mechanisms. The discussion also addressed instant messaging. The Applicants noted that the unrefuted evidence in the record demonstrates rapid gains in usership by rival instant messaging providers, which rebuts any argument that IM is "tipping" toward AOL. In addition, Applicants discussed the widespread availability of presence detection features and the speculative nature of any future extensions of IM or presence detection features. As to AT&T's interest in TWE, there exists no ownership or contractual relations arising from this merger that would create any "AT&T connection" that would harm competition in any relevant arena. The parties also discussed issues regarding interactive television, maintaining that no government intervention is warranted in this nascent marketplace.

Kindly direct any questions regarding this matter to the undersigned.

Respectfully submitted,



Wayne D. Johnsen

cc: Deborah Lathen  
Michele Ellison  
Robert Pepper  
Gerald R. Faulhaber  
Sherille Ismail  
James Bird  
Royce Dickens  
Linda Senecal  
International Transcription Services, Inc.