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September 21, 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, DC 20554

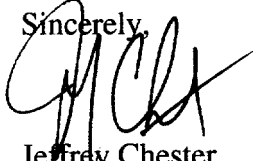
Re: America Online, Inc .and Time Warner. Inc. Notice of Ex Parte Presentation
Applications of America Online, Inc. and Time Warner, Inc.
For Transfer of Control, CS Docket No.00-30

Dear Ms. Salas:

On behalf of the Center for Media Education we are submitting herewith pursuant to the Commission rules, an original and one copy of this notice regarded a permitted written Ex parte submission in the above-referenced proceeding.

I submitted, via e-mail, to Ms. Royce Dickens and Carl Kandutsch a summary of rules adopted in the United Kingdom to govern interactive television.

Sincerely,



Jeffrey Chester
Executive Director

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List A B C D E

Digital Television and Interactive services in the UK

ITC¹

The Independent Television Commission (ITC) has developed a flexible regulatory approach aimed at encouraging the newly emerging interactive services market to develop.

- The ITC makes it clear that in respect of interactive services the Commission does not intend to invent “new” regulation over and above what exists already and that it intends to simplify its regulatory requirements wherever possible. The ITC’s general perspective is that the greater level of active viewer choice allows some elements of existing rules to be disapplied. The regulation of these new services will need to be kept under constant review as both the nature and range of the services and the level of viewer take-up become clearer.
- The ITC has identified two different kinds of interactive service of which all current developments are variations. These are
- Dedicated Interactive Services – These are stand-alone services not related to a broadcast programme but accessed primarily directly via an Electronic Programme Guide. This links the viewer to a series of commercial (“Shopping Mall”) entertainment and information services.

In terms of regulation the ITC’s assumption is that viewers will understand the nature of this kind of commercial environment. In such an environment the principal concern of users is likely to be issues such as misleadingness with much less accent on matters of taste and offence.

The ITC proposes that the most effective form of consumer protection in the dedicated interactive environment is a “notify and remove” policy. There would be an obligation on licensees to use their contractual relations with their content providers to amend or remove content that did not comply with ITC rules. This procedure may be triggered by customer complaints, alerts from trading standards officers or changes in public policy.

- Enhanced programme services – these are services linked with traditional “linear” programme services. Using digital technology, viewers will have the opportunity to leave the linear programme and to interact both with programmes and with advertisements.

The principles underlying the regulation of enhanced programming should mirror those applying to the linear environment:

Integrity – programme content and scheduling must not be determined by advertisers and sponsors

Transparency and Separation – viewers must know at all times that they are in a commercial environment and the advertising and programme content must be clearly separated.

Acceptability – of advertising includes both the content of individual advertisements and the context in which they are seen (i.e their scheduling). ITC rules for advertising are based on the proposition that no viewer should be more likely to be misled, harmed or offended simply because of the method by which the message was received. This proposition clearly applies to enhanced just as it does to linear programming - the main issue being the extent to which the ITC's rules need to be modified to reflect the positive choice the viewer has made to view particular material on screen.

OFTEL

In addition OFTEL is responsible to ensure that the prices broadcasters and other third-party service providers have to pay for access to digital television receivers to provide television and interactive services are fair reasonable and non-discriminatory. Conditional access services are telecommunication services which control end-user's access to television services. Access control services are telecommunication services (other than conditional access services) which control the supply of other digital telecommunication services to end-users.

Conditional access operators (apart from those who supply only to themselves) and Regulated Suppliers of access control services must ensure that charges to third parties for conditional access and access control services are set on a fair, reasonable and non-discriminatory basis. When considering what is meant by the phrase 'fair, reasonable and non-discriminatory basis', OFTEL will apply the following general principles:

- the overall pricing framework should be such that on average the conditional access operator should be able to recover its costs and make a return on its investment which is appropriate to the level of risk and uncertainty at the time of investment;
- prices for particular categories of services (or groups of services) should fall between the incremental cost of providing that service (or group of services) and the stand-alone cost of providing that service (or group of services) on its own; and
- comparable users are charged comparable prices for comparable services;
- vertically integrated suppliers of conditional access or access control services must not supply to their own downstream businesses any more favourably than to those of third parties.

OFTEL's guidelines ensure that conditional access and access control operators:

- may set prices to make a return on their investment that is on average neither inadequate nor excessive, properly accounting for risk and uncertainty present at the time of investment;
- recover costs attributable to conditional access and access control services whilst ensuring that third party service providers do not contribute to costs that have already been recovered elsewhere; and
- have sufficient flexibility to negotiate different pricing arrangements with third party service providers and maximise usage of the system, whilst also ensuring there are no material adverse effects on competition.

The Consolidated Guidelines apply to all suppliers of conditional access services, except for those who supply only to themselves. In relation to access control services, the Guidelines only apply when a Regulated Supplier Notice has been issued.