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CABLE SERVICES BUREAU CHIEF

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CABLE SERVICES BUREAU

January 4, 2001

VIA FACSIMILE

Ms. Deborah Lathen
Chief, Cable Services Bureau
445 12th St., SW – The Portals
TW-B204
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Ms. Lathen:

The Commercial Internet eXchange Association (CIX) submits this letter to offer its views on CS Docket 00-30 AOL-Time Warner Merger, specifically regarding the desirability of the FCC's involvement in promoting interoperability among different instant messaging standards. In general, CIX does not support regulation in the area of Internet protocols and standards; however, CIX views the FCC's involvement in the context of the AOL-Timer Warner merger as necessary because of AOL's unwillingness to fulfill commitments it has made on instant messaging interoperability. CIX urges that merger approval be conditioned on the AOL's agreement to make its IM service interoperable with other providers by a date certain.

CIX is the principal trade association of the ISP industry with a membership of over 100 different networks ranging from global backbone carriers to local ISPs. In addition CIX is in the midst of merging with another national ISP trade association with approximately 500 local and regional providers.

Network interoperability is a fundamental objective of internetworking, without which the Internet would not have come into existence. Open – rather than proprietary – standards and protocols enabled individual private and public networks to extend the Internet beyond local LANs into a global, distributed non-hierarchical network of networks. Furthermore, interoperability frees providers from defending proprietary standards – as AOL is doing – to developing innovative and appealing features and functions.

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In addition to its technological benefits, interoperability also promotes consumer choice among competitive and compatible services and products. An open IM market can be expected to grow faster than a fragmented market based on proprietary standards, and this growth in turn should attract more vendors, providers and users.

AOL has employed numerous legal, technical and economic arguments to oppose interoperability. Nothing is more telling, however, than its behavior within the IETF, which attempted to achieve consensus on an interoperable Instant Message and Presence protocol this summer. Instead of engaging constructively in the development of a detailed IM standard, it contributed little of substance and chose instead to attack proposals put forward in good faith by others. The result was -- and continues to be -- confusion and delay in the technical engineering community. AOL's actions clearly characterize a strategy of delay and non-cooperation.

Finally, as the Commission considers its options, CIX would suggest that it avoid "compromise solutions" that have political appeal but make no technological sense whatsoever. Such a course will simply lead to legal, regulatory, and technological confusion without yielding the benefits of interoperability.

Sincerely,

Barbara A. Dooley
Barbara A. Dooley
President (EL)

CC: Chairman William E. Kennard
Commissioner Susan Ness
Commissioner Harold Furchtgott-Roth
Commissioner Michael Powell
Commissioner Gloria Tristani