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Commissioners:

I write to you in regards to proceeding 00-30 concerning a proposed merger between AOL and Time-Warner. As a current Time-Warner customer I am very concerned with any merger or consolidation that reduces the number of competitors in the limited high-speed Internet access market. Active and fierce competition in market segments serves to benefit consumers by ensuring that companies act in their customer's best interest, lest they lose customers and eventually close up shop. When two business entities the size of AOL and Time-Warner seek to consolidate competing services into one business unit it is the responsibility of our government to ensure that the best interests of the general public and the impacted market segment are considered first and foremost.

At present AOL and Time-Warner have restrictive access policies that can be used to control the sharing and expression of thoughts and ideas by its subscribers. Using ambiguous phrases such as "comply with the service's standards of conduct" the service provider places itself in a position to quell the speech of anyone with whom they do not agree.

I implore you to thoughtfully consider the ramifications of a merger between these two companies and what it will mean to their customers and the Internet Service Provider market. If the merger were to be approved I would respectfully request that you consider enacting controls similar to those imposed on telephone companies as a condition of the merger. Enacting a strict set of guidelines ensuring consumers speech free of reprisal and providing an appeals mechanism utilizing a disinterested third party to rule on customer complaints would ensure that customers would not have to fear speaking their minds for fear of having their access terminated.

Additionally, perhaps part of the answer is to require a revision to the acceptable use policy, so as not to permit Time-Warner/AOL to impose any restriction or limitation on customer freedom of speech and expression that is not a violation of local, state, or federal law. At present Time-Warner's acceptable use policy, as published on their web site, states in the first paragraph "Road Runner therefore has reserved the right to remove any content posted to its system that it deems offensive, inappropriate or in violation of its policies." The good folks at Time-Warner / Road Runner should not have the discretion to deem what is offensive or inappropriate. By their standards I'm sure that they would find this letter both offensive and inappropriate, yet I doubt that you would find a judge in the United States who would agree with them. Placing such broad and sweeping power in the hands of a private entity, concerned with acting only in its best interest, would have our forefathers turning in their graves. Many great Americans have

died over the years to protect the right to speak freely, please don't mock them by empowering AOL / Time-Warner with overly broad powers and control over the speech of America's citizens.

While I can't attest to the validity of the following, this was posted in Usenet recently

These are the things that Colette Lantelme, Security Administrator of Road Runner, claims are against the Road Runner Acceptable Use Policy.

1. *Posting a message on any "For Sale" message board.*
2. *Listing a product on any Ebay, Ubid, or similar service. (Boy, is EBAY gonna be PISSED!)*
3. *Announcing job availability.*
4. *Replying to job availability.*
5. *Mentioning that the user had tried any product and found it satisfactory - or unsatisfactory.*
6. *Posting a message to any "personals" board.*
7. *Asking a user for a date.*
8. *Calling attention to any commercial or non-commercial website, including personal websites provided as part of the purchase price of the service sold by Time-Warner.*
9. *Calling attention to any IRC chat channel.*

If the above references are indeed correct then extending these free speech constraints to the millions of Americans currently customers of AOL would be an extreme disservice by their government officials.

When the telephone was first invented no one knew what a huge impact it would have on the fabric of American society. The Internet is headed the same direction as the telephone with respect to its role in our daily lives and communications. If you were to empower the telephone companies with censorship privileges there would be a loud cry for your heads from the American public. This is an opportunity for you to demonstrate foresight and wisdom in rendering your decision.

Please consider carefully your decision on this matter. Permitting these two giant corporations to merge and control a significant portion of the Internet access market without putting in controls to ensure free speech and recourse by their customers would hurt us all.

Thank you for taking the time to listen to this great country's citizens.

Sincerely,

Marc H. Fishman