

To the FCC Commissioners

Ladies and Gentlemen:

I am writing in response to the proposed merger of America Time Warner Communications. There are two elements in the proposal that greatly concern me. I would hope that the commissioners would carefully consider these in making their decisions.

The development and evolution of the Internet is a study in how a system without artificial limits can exceed anyone's expectations. The "rules of the road" for the information superhighway, such as they are, have been agreed upon by community consensus and is a marvelous example of market forces at work. One of the guiding principles which has evolved within this community is the open and free exchange of information, much as there is within the academic environment that fostered the early years of the Internet. The internet has always subscribed to and operated under the guarantees of the First amendment to the Constitution, without regard for questioning whether this was a legal requirement.

The proposed merger as set forth in proceeding # 00-30 will violate every principle of freedom of speech upon which the Internet has historically been based. Specifically, the combination of Time Warner and AOL will be powerful enough to establish the rules which everyone desiring high speed, and possibly any, access will be subject to, and those rules are truly alarming to those accustomed to freedom of the net. They state:

IF TIME WARNER DETERMINES THAT THE SUBSCRIBER HAS FAILED TO COMPLY WITH THE SERVICE'S STANDARDS OF CONDUCT OR LIMITS ON BANDWIDTH UTILIZATION, TIME WARNER MAY SUSPEND SUBSCRIBER'S ACCOUNT. TIME WARNER COMMUNICATIONS SHALL HAVE THE SOLE AND UNREVIEWABLE RIGHT TO DETERMINE WHETHER CONTENT VIOLATES THESE STANDARDS.

This language is quite frightening, given that it grants license to censor to a corporate entity not to the common good, but to bottom line economic forces. Our guarantees under the constitution were designed by its authors to be beyond those forces for good reason. They recognized that such a fundamental right to freedom could never be effectively overseen by a purely commercial, or even political, entity. I believe that the Commissioners would be well served to remember that example, and move to insure that access cannot be denied to the internet by the gatekeeper based on the content of the speech of the user.

My second concern is related, although it could never have been foreseen by our founding fathers. Bandwidth is fundamental to the ability to communicate on the Internet. Here again, Time Warner Communication proposes to hold a noose around the available bandwidth, and, subject to their whim alone, choke off access to those they deem unacceptable.

Certainly this commission cannot order how much bandwidth they supply to their customer. But this commission can and should insure that any company, as a condition of the privilege of merger, deliver to their customers what they promise. A company which advertises and sells unlimited access, then terminates those who use this access, while retaining what, to them is the most profitable base, those who do not use this access, is defrauding the public.

I urge you, therefore, to consider these concerns in reaching your decision. The easy course will be to merely accede to the demands of the corporations. That, however, will require that someone eventually solve the problems that will inevitably result from that decision - and the person who must repair the damage may be you.

Thank you for your attention to my concerns.

Herbert C. Jones