

To the FCC Commissioners

Ladies and Gentlemen:

I am writing in response to the proposed merger of America Online and Time Warner Communications.

The internet has been, and always should be, a forum for all views and ideas to be presented and shared. It has always been a place of open and free exchange. 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.

By it's very nature, the Internet is self-policing. If one does not like the information posted, there are thousands of other ideas in cyberspace to choose from. One is never limited to, or forced to view anything objectionable to them.

However, with the proposed merger of Time-Warner and America Online, people may very well be prevented from accessing information valuable to them, or from expressing their opinions online.

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.

I am aware that there has been much made lately of safety on the Internet. Citizens concerned with pornography, hate-mongering, and pedophilia have been very vocal in their desire to police the Internet. But my experience with AOL has been that they do not share those very real concerns. Before what can be frightening, hot button issues can color any decision made on this merger, it is my hope that the Commissioners will consider my own experience with AOL, and the similar experiences of others.

While a member of America Online, I was treated to a "Violation" of their Terms of Service (TOS) agreement twice. The first time, my private email box had been deluged with mail after mail promoting pornography sites. Finally, after receiving an email from yet another Porn site, one that did not hide, as was usual, the email addresses of other recipients, I emailed them. My email suggested banding together, to find ways to keep our email boxes free of such unwanted propositions. The email pointed out suggestions for safeguarding one's email address, and provided direction to places on the Internet designed to help victims of 'spam'. AOL found my email objectionable, and "violated" me. It is important to note, for those who are concerned with the proliferation of pornography, that AOL did nothing to stop such emails being sent, unwanted, to their members, instead, their objection was to trying to STOP it.

The second time AOL presented me with a TOS violation was after I sent a private email to my parents, and siblings warning them about a new computer virus that had been running rampant at the time. AOL decided such a warning to my own FAMILY was tantamount to sending 'chain mail'.

My objections to this treatment were ignored. My family, friends, and I all emailed AOL asking expressing our anger over this incident, and asking AOL to explain how this simple warning was a TOS violation. I received one 'form' email stating that my email contained words AOL's automatic 'checker' interpreted as being 'chain mail'. The letter to my family suggested letting their friends know about the virus. It must be noted that AOL's own definition of 'chain mail' specifically stated that to be considered 'chain' a mail needed to demand that the receiver 'send the email to a -specific number of people' within a 'specific period of time'. In no way could 'send this info to people you care about' be considered fitting into the above definition. Though I pointed this out to AOL a number of times after that, I never received another reply from them. I left AOL soon after.

That any internet provider could take upon itself the task of monitoring private communications between members of a family should strike everyone as alarming. If freedom of speech isn't even respected when one writes their mother, then something is clearly wrong.

Another concern is Time Warner's restrictions on Bandwith usage. 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.