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 FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

Ladies and Gentlemen,

Please find a copy of an Ex Parte filing I made today. I would like to request a conference call with FISPA, TIPSA, and myself so that we could discuss in more detail the importance of "business-class services" for second and third tier communities.

Here it is:

FTC Conditional Approval of the AOL/Time-Warner Merger Does Not Provide Business-Class Services Open Access

January 3, 2001. Oshkosh, WI. In a December 8, 2000 Washington Post story, *No More Concessions, AOL. Time Warner tell U.S.* written by Alec Klein, it is reported that Time Warner will deny all ISPs including Earthlink the right to offer business-class services to their business customers. Another cable company, Adelphia, has the same provision in Vermont for its High Speed Internet offering which is *for home and family use.*

While they deny unaffiliated ISPs the ability to sell to business customers, the ISP that Time-Warner owns or chooses will be able to do so, Frank Tower, Managing Director of NorthNet in Oshkosh, WI, pointed out. *It is hard to imagine a more blatantly anti-competitive proposition or to image that the Federal regulators will be willing to going along with such a scheme.*

The problem has already been flagged by the National Association of Towns and Townships in their recent Federal Communications Commission filing, *What this means, as a result, is that small businesses and telecommuters will be unable to use the affiliated ISPs service up to the capability of the network.* In other words, a whole group of small to medium-sized populations will be forced to deal with a cable monopoly long after the AOL/Time-Warner merger is approved. Cities, businesses, and ISPs in second and third tier areas, which DSL cannot adequately serve, will not have competitive access to cable*s High Speed Internet.

Public promises from AOL/Time-Warner to the contrary, whole communities are essentially being told that they will not be allowed to have competitive business-class services passed by cable networks, although companies like Time-Warner*s subsidiary Roadrunner already advertises and sells to business customers. NorthNet owner David Willeford notes, *This is why NorthNet has been fighting so hard for a broad-based *non-discriminatory open access* provision in the FTC*s approval of the AOL/Time-Warner merger. NorthNet, with over 250 business customers many of which without alternative High Speed connections, believes that

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walling off the business market would have a devastating impact on many regions in the U.S. including northeastern Wisconsin.*

After watching the effect of a whole year of broken promises, Federal regulators should not need a reminder that Time-Warner has no intention of allowing unaffiliated Internet Service Providers to connect with their networks on a non-discriminatory basis. Now, all ISPs receive another slap in the face when it was revealed that Time-Warner is putting a new, anti-competitive and anti-consumer obstacle in the way of a comprehensive *Non-Discriminatory Open Access* national policy.

*This unpublicized restriction by Time-Warner*s new Term Sheet fits a pattern I have previously discussed in my two Open Letters to the FTC and FCC,* says Stephen Heins, Director of Marketing for NorthNet. *Frankly, this anti-competitive provision shows the future potential for other anti-consumer behavior by AOL/Time-Warner, unless the FCC mandates a level marketplace for all communities, businesses, and ISPs.*

Sincerely,

Steve Heins

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