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P.O. Box 506  
White Plains, NY 10603  
September 1, 2000

Hon. Magalie Salas  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Proposed AOL – Time Warner Merger  
Application for Transfer of Control  
CS Docket No. 00-30/

Dear Ms. Salas:

I am delivering by hand to the FCC Secretary Mail Room four copies of this notice of my meeting yesterday with Royce Dickens and James Heimbach. Two copies are being delivered to you, and one copy each to Royce Dickens and James Heimbach.

At the meeting, I presented the issues discussed in my August 22, 2000 letter to you, which I have attached. I made the following points:

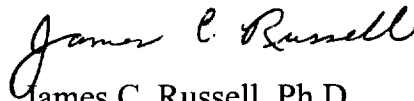
1. AOL's restrictions on the free expression of individual customers raises serious concerns about the degree of openness and interconnectivity that would exist at the Internet Service Provider (ISP) level in a merged AOL – Time Warner. For example, might not a merged AOL – Time Warner reject the request of an ISP to connect to its cable network because the ISP does not impose the same restrictive "Rules of Conduct" that AOL currently imposes on its customers? If this possibility exists, I believe that any FCC approval of the Application for Transfer of Control should be conditional upon the acceptance of rules that guarantee open connectivity. As Commissioner Kennard stated in his introduction to the July 27th *en banc* hearing: "I believe that the promise of the Internet is in its remarkable openness, and I hope that this merger would only expand on this openness." To allow a merged AOL – Time Warner to impose restrictions on Internet interconnectivity and free speech would certainly not expand the Internet's openness, nor would it be in the public interest.
2. It is imperative that the FCC issue appropriate regulations guaranteeing Internet freedom of expression and interconnectivity at this juncture since, as Chairman Kennard stated at the *en banc* hearing: "this merger could ordain the essential nature of America's broadband services."

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3. It appears that, in addition to pressure from the Anti-Defamation League, AOL's recent imposition of additional restrictions on free speech may be attributed to its anticipated merger with Time Warner, since the Associated Press has reported that CNN, which previously had been acquired by Time Warner, employs restrictive "software filters" and has employees "look for messages that slip through." If this is the case, I believe that the FCC should mandate the elimination of these restrictions as a condition for approval of the merger.

Thank you for this opportunity to express my serious concerns about the proposed merger.

Sincerely yours,



James C. Russell, Ph.D.

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914-747-7355

Attachment: Letter of August 22, 2000

cc: Royce Dickens  
James Heimbach

P.O. Box 506  
White Plains, NY 10603  
August 22, 2000

Hon. Magalie Salas  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: Proposed AOL/Time Warner Merger Application for Transfer of Control  
CS Docket No. 00-30

Dear Ms. Salas:

I am writing to the Commission because it is currently considering the merger application of AOL and Time Warner. AOL has previously acquired Compuserve and currently has 28 million subscribers. Time Warner has previously merged with CNN.

At a public hearing on the proposed merger, FCC Commissioner Gloria Tristani warned:

This proposed merger is not only one of the largest in United States history but combines the control of conduit and content in an unprecedented fashion, implicating issues that are at the core of our democracy. It raises the specter of barriers to the free flow of information and the marketplace of ideas.

If the shelves in the marketplace of ideas are stocked by too few hands, a kind of digital imperialism may replace a well-informed citizenry....

I am particularly concerned about the impact of this proposal on the diversity of voices and ideas. I am also concerned that this merger may limit a consumer's choice regarding Internet service providers and/or cable delivery services. One question is repeatedly raised. Does the dominance over instant messaging by one corporation create impermissible barriers to competition and to the free exchange of ideas.

This warning is all the more pertinent in light of AOL's recent acts of censorship and threatened punishment of subscribers who dared to criticize the selection of Joseph Lieberman as the Democratic nominee for Vice President. In an industry news release dated August 9, 2000, the Associated Press reported:

AOL, which recorded more than 28,000 postings on Lieberman, said Wednesday it deleted an unspecified number for violating its policies against hate speech. CNN suspended about 10 users from its chat rooms....

AOL spokesman Nicholas Graham said the postings were being investigated, and offenders could have their accounts canceled or suspended....

CNN has software filters to automatically block profanity and hate words from chat rooms, and humans look for messages that slip through.

These gross violations of online free speech become all the more outrageous when it becomes apparent that AOL has permitted its censorship and punishment policies to be directed by a special-interest organization, the so-called "Anti-Defamation League" (ADL). This same AP report notes that:

Abraham Foxman, national director of the Anti-Defamation League, lauded the response from Internet sites. "They are doing it on their own, not just waiting for us to bring it to their attention," Foxman said.

The ADL's own website brags that:

For some web sites, regulating content remains a work in progress. Today, Internet providers such as America Online have clear guidelines regulating what is acceptable and what is not acceptable behavior on their servers. An AOL subscriber can lose privileges simply because of a complaint from another user. AOL and others have worked closely with ADL to respond responsibly to hate on their servers.  
([http://www.adl.org/frames/front\\_internet\\_law.html](http://www.adl.org/frames/front_internet_law.html))

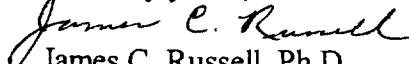
Neither AOL or CNN have provided examples of the content they have deleted or for which their subscribers have been punished. It should be obvious that content which the ADL considers to be "anti-Semitic" may include critiques of current US Middle East foreign policy. AOL's submission to ADL pressure raises serious questions regarding a merged AOL / Time Warner to maintain freedom of expression and free interconnectivity of ISP's.

The proposed merger of AOL and Time Warner - CNN constitutes the most serious threat to online free speech that has arisen since the birth of the Internet.

The only way this merger could become remotely acceptable is if the FCC imposes strict conditions upholding online free speech. AOL's "Rules of Conduct" must be modified to omit all restrictions on so-called "hate speech" and explicitly permit freedom of expression without threat of punishment.

Please inform me if there are to be any additional public hearings scheduled. I will be in Washington the week of August 28th. I would welcome the opportunity to speak with you and any one else at the FCC who is involved in this vital matter.

Thank you very much for considering these issues.

Sincerely yours,  
  
James C. Russell, Ph.D.  
jcrussell5@yahoo.com  
914-747-7355

cc: Linda Senecal  
Royce Dickens