

FLEISCHMAN AND WALSH, L. L. P.

ATTORNEYS AT LAW
A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION
1400 SIXTEENTH STREET, N. W.
WASHINGTON, D. C. 20036
TEL (202) 939-7900 FAX (202) 745-0916
INTERNET www.fw-law.com

AARON I. FLEISCHMAN

FLEISCHMAN AND WALSH, P. C.
CHARLES S. WALSH
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

July 12, 2000

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
445 12th Street, S.W. - The Portals
Washington, D.C. 20554

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RE: Time Warner Inc. Notice of Ex Parte Presentation
Applications of America Online, Inc. and Time Warner Inc.
for Transfers of Control, CS Docket No. 00-30

Dear Ms. Salas:

On behalf of Time Warner Inc. ("Time Warner"), submitted herewith pursuant to Section 1.1206(b)(2) of the Commission's rules, is an original and one copy of this summary of a permitted oral presentation to Commission officials regarding the above-cited proceeding. On July 6, 2000, Time Warner representatives met with certain members of the Commission's staff, at their request, to discuss Time Warner Cable's deployment plans relating to digital cable services, residential telephony and high-speed Internet service, as well as certain issues relating to video programming services.

Attending the meeting on behalf of the Commission were Deborah Lathen, Royce Dickens, Darryl Cooper, Anne Levine, Ben Golant, Andrew Wise, Carl Kandutsch and Peter Friedman from the Cable Services Bureau; Pieter van Leeuwen from the Office of Plans and Policy and Jim Bird from the Office of General Counsel. Attending on behalf of Time Warner were Glenn Britt, President of Time Warner Cable; Marc Apfelbaum, Senior Vice President and General Counsel of Time Warner Cable; John Newton, Senior Vice President-Programming, Time Warner Cable; Catherine Nolan, Vice President, Law and Public Policy of Time Warner; and Arthur Harding of Fleischman and Walsh, L.L.P. Attending on behalf of AOL was Steven Teplitz, Senior Director of Telecommunications Policy.

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Mr. Britt summarized the status of Time Warner's roll-out plans for digital cable service, residential telephony and high-speed Internet service, as set forth in detail in response to the Commission's Document and Information Request No. 1, which was submitted jointly to the FCC by Time Warner and AOL on June 26, 2000.

In response to specific questions from FCC staff relating to digital cable deployment, Mr. Britt described the digital set-top boxes currently being deployed by Time Warner. Such devices enable subscribers to enjoy additional channels of cable programming offered on digital tiers, multiplexed pay television services (such as HBO multiplex and Showtime multiplex), numerous formats of digital music, near video on demand, and an interactive program guide. Time Warner is also testing true video on demand in three of its divisions. The biggest obstacle to a more rapid roll-out of digital set-top boxes can be attributed to a world-wide shortage of silicon chips. Mr. Britt also described the next generation of set-top boxes that is likely to include additional capabilities, including subscription video on demand.

Turning to residential telephony deployment, Mr. Britt explained that Time Warner is conducting an experiment with circuit switched telephony over cable facilities in Rochester, NY. Mr. Britt also explained that Time Warner is conducting a test in Portland, Maine of IP telephony and may do others. To the extent the June 26 response created the impression that the Rochester IP telephony trial is already underway, we hereby correct the record. Mr. Britt noted that AOL has also closely analyzed the potential for IP telephony. Thus, when the combined knowledge and expertise of those two entities comes together pursuant to the merger, Time Warner anticipates that the roll-out of IP telephony over cable can be greatly expedited.

In the area of high-speed Internet service, Mr. Britt explained the two major aspects to a successful deployment. First, the cable system has to be modified technically to enable high-speed Internet service. Second, the actual business has to be ramped up. This second step involves marketing, installation, customer care, billing, etc.

As explained in the June 26 response, Time Warner has made considerable progress in the system upgrade area and expects approximately 70% of the homes passed by its cable systems to be capable of receipt of high-speed Internet service by the end of this year. It is the second prong of the roll-out process that Time Warner would like to expedite. For example, installation of cable modem service can be a time-consuming, labor-intensive process. Time Warner is very sensitive to consumer frustration from the inability to obtain installation on a timely basis. Time Warner expects that the AOL/Time Warner merger will result in the deployment of more resources to these marketing and customer connection functions, thus hastening the ability of consumers to obtain high-speed Internet service. Mr. Britt also stated his belief that additional expertise from AOL will enable Time Warner to be able to roll out high-speed Internet services in more of its smaller divisions than could otherwise be accomplished.

Mr. Britt also provided further support for Time Warner belief, as set forth in the June 26 response, that the AOL/Time Warner merger, and the implementation of the principles set forth in the MOU in particular, would lead to wider availability of high-speed Internet service to consumers. First, as multiple ISPs become available on Time Warner cable systems, such ISPs can be expected to compete on the basis of price, speed, functionality, etc. Such competition is likely to fuel consumer demand. Moreover, multiple ISPs will likely employ differing marketing strategies which, in combination, will undoubtedly result in enhanced consumer awareness of cable modem service, again leading to higher penetration.

Second, as Time Warner picks up the pace of its high-speed Internet service deployment, alternative platforms, such as DSL, fixed wireless and satellite, will likely follow suit. Indeed, the Commission has repeatedly recognized these pro-consumer effects of high-speed Internet service deployment by cable systems.<sup>1</sup> Without question, more widespread and more rapid availability of high-speed Internet service, available over multiple platforms, is a tangible public interest benefit to be realized from the AOL/Time Warner merger.

Mr. Newton described the status of Time Warner's efforts to develop local 24-hour cable news channels. To date, Time Warner provides such local news channels to its cable subscribers in the following divisions:

New York, NY  
Rochester, NY  
Austin, TX  
Tampa, FL  
Orlando, FL

Each of these news channels is wholly owned by Time Warner, with the exception of the Orlando local news channel which is a joint venture between Time Warner and the Orlando Sentinel newspaper. Moreover, each of these channels has been developed solely for the internal

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<sup>1</sup>Chairman William E. Kennard, "Consumer Choice Through Competition," Remarks before the National Association of Telecommunications Officers and Advisors, Atlanta, GA, September 17, 1999, available at <<http://www.fcc.gov/commissioners/kennard/speeches.html>> (competition from cable "is going to really jumpstart broadband deployment in this country."); Chariman William E. Kennard, "The Unregulation of the Internet: Laying a Competitive Course for the Future," Remarks before the Federal Communications Bar, Northern California Chapter, San Francisco, CA, July 20 1999, available at <<http://www.fcc.gov/Commissoners/kennard/speeches.html>> ("Where cable modem service has been introduced, DSL has followed."); Deborah A. Lathen, Chief, Cable Services Bureau, Remarks before the National Governors' Association, February 27, 2000, available at <<http://www.fcc.gov/Speeches/misc/spdal904.html>> ("deployment of cable modems has spurred the deployment of DSL...").

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use by local Time Warner cable systems, with the exception of NY1, the local cable news channel in New York City, which is also distributed by Cablevision Systems Corp. ("Cablevision"). Notably, of the five metropolitan areas where Time Warner has developed a local news channel, New York City is the only one where Time Warner does not provide cable service to the entire core city and the majority of the surrounding suburbs. Thus, in order to achieve such coverage in New York, it was necessary to distribute the service on Cablevision cable systems as well as those owned by Time Warner.

Time Warner Cable's approach to local news is highly community oriented. As a 24-hour service, Time Warner is able to provide in-depth coverage to local events such as meetings of local authorities (including city and county councils, zoning and school boards, planning commissions, etc.) as well as local parades, festivals and other community activities. Time Warner is able to provide detailed coverage of every-day events such as road construction, school lunch menus and exhibit openings at local museums. In short, Time Warner's local news channels can provide substantial coverage to local events which are often reported by local television stations through mere sound-bites, if at all.

Mr. Newton described generally the costs involved in running a local cable news operation. He explained that revenues are derived from a combination of internal license fees allocated from cable system operations and the sale of local advertising. But the greatest value of these services is the goodwill derived from highly visible involvement in the fabric of community affairs, coupled with the ability to differentiate Time Warner cable service from alternative MVPDs by offering a unique service that has been created locally by each relevant Time Warner cable division. As cable faces ever increasing competition from DBS and other sources, the ability to offer at least some programming that is exclusive to Time Warner cable is of particular importance. For example, DBS, as a national service, enjoys many advantages over local cable operators, such as the ability to mount effective national advertising campaigns. Moreover, DBS has the ability to bargain for exclusive rights to highly desirable programming of nationwide appeal, such as the NFL Sunday Ticket package. By withholding this popular programming from cable operators, DBS enjoys a significant competitive advantage. As a local service, Time Warner has a greater ability to create local news channels as a mechanism to differentiate its programming offerings from those available on DBS and other MVPDs.

In order to create incentives for local MVPDs to develop their own unique programming offerings, in the 1992 Cable Act Congress wisely exempted such local, terrestrially distributed services from the program access rules. In other words, if an MVPD goes to the expense and effort of creating its own local programming, it is protected by federal law from any obligation to sell that programming to competing MVPDs. Time Warner has relied on this fundamental statutory right in its development of its highly acclaimed local news channels. Absent this protection, Time Warner would undoubtedly be forced to reconsider the continued production of such programming. Mr. Newton went on to stress, however, that no one has exclusive rights to

create local news channels. Nothing prevents any MVPD or any other party from starting up its own news operation, just as there are numerous television stations, radio stations and newspapers independently covering local news in each of the five areas where Time Warner's local cable news channels operate. Indeed, if Time Warner were forced to sell its local news channels to competing MVPDs, such MVPDs would have no incentive to create their own service and add yet another voice to the diverse array of local journalistic outlets.

Mr. Newton and other Time Warner representatives then proceeded to respond to specific questions raised by the FCC staff. Such responses are summarized below:

1. Time Warner has no plans to switch any video programming networks currently delivered by satellite to terrestrial delivery.
  - Time Warner's decisions as to delivery technology for video programming networks are based on economic efficiencies.
  - All of Time Warner's national programming services are delivered by satellite.
  - Time Warner offers one regional service - Turner South - a general entertainment service designed for subscribers in southern states. This service is also delivered via satellite. Time Warner Cable does not presently carry Turner South on any of its systems.
  - Time Warner does not own any regional sports networks.
  - Time Warner's local news services, which are designed primarily for distribution by a particular cluster of communities served by Time Warner Cable, are delivered terrestrially. It would make no economic sense to distribute a service by satellite solely to communities served by a cable system cluster in one geographic area.
  - This is also true for any other local programming designed for distribution by a particularly cable system cluster, including other local origination cablecasting, PEG access channels and leased access channels.
2. Time Warner has no significant number of exclusive agreements restricting the availability of cable programming networks to other MVPDs.
  - None of the Time Warner satellite cable programming services are sold on an exclusive basis, including HBO, Cinemax, Comedy Central, CNN, Headline News, TBS, TNT, Cartoon Network, Turner Classic Movies or Turner South.

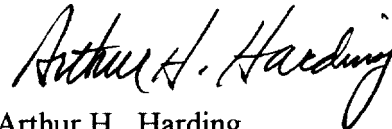
3. Time Warner Cable has been the industry leader in arriving at marketplace arrangements regarding the carriage of digital broadcast signals.
  - Time Warner has negotiated retransmission consent agreements providing for carriage of both analog and digital signals with each of the four major television networks: CBS, NBC, Fox and ABC.
  - These agreements also serve as templates for stations affiliated with, but not owned by, any of the four television networks. Indeed, negotiations with other major television group owners are underway.
4. AOL Time Warner will not attempt to force MVPDs to carry the AOL high-speed Internet service as a condition to receipt of any of the Time Warner cable programming services.
5. AOL and Time Warner have not developed any specific plans relating to the bundling of AOL high-speed Internet service and cable service. However, Time Warner's experience in cable has demonstrated the pro-consumer benefits of offering packages of video programming services and providing discounts to those selecting larger bundles.
  - Consumers like the ability to purchase a bundle of services to meet their telecommunications needs.
  - Numerous providers offer bundles of services: ILECs, CLECs, DBS, etc.
  - Numerous efficiencies can flow from bundling:
    - billing
    - marketing
    - customer service
    - installation
  - Time Warner has no definitive post-merger plans with respect to bundling. However, AOL Time Warner would expect to explore the efficiencies that might flow from offering a bundle of services over its cable systems, and providing volume discount incentives to subscribers selecting bundled offerings.
  - Services that might be bundled would include:
    - video programming
    - high-speed Internet access

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- local telephony
- long distance telephony

Kindly direct any questions regarding this matter to the undersigned.

Respectfully submitted,



Arthur H. Harding  
Counsel for Time Warner Inc.

cc: Deborah Lathen, CSB  
Royce Dickens, CSB  
Darryl Cooper, CSB  
Anne Levine, CSB  
Ben Golant, CSB  
Andrew Wise, CSB  
Carl Kandutsch, CSB  
Peter Friedman, CSB  
Pieter vanLeeuwen, OPP  
Jim Bird, OGC  
Linda Senecal, CSB  
International Transcription Services, Inc.