

To the FCC Commissioners:

I must join the ranks of my fellow users in expressing extreme concern regarding the proposed merger between Time Warner and America Online. By allowing this merger to take place we are promoting the exact kind of behavior that the USDOJ is currently suing Microsoft for. I have watched as Time Warner swallowed up competitor after competitor, rapidly becoming the only provider available in my area. I have watched as AOL has done likewise with competing content providers. Their predatory behavior is legendary in the markets they are in, and by allowing them to merge we allow this behavior free reign.

I'm also concerned with already unbearable customer service (or more aptly named customer-disservice) afforded to customers of the Time Warner system. I have personally been battling them since December, 1999 to get my services stable and usable at all times, both for television content and for Internet accessibility, to little avail. Allow me to cite a sample from just the month of September, 2000. Please forgive the abbreviations as this sample is directly cut-and-pasted from my own notes of this ongoing situation.

8/31 Sydney - set up svc call for 9/5 to correct problems with modem and bad reception.

9/5 Svc Call - 0800-1200 MISSED (Call confirming 0800-1200 rcvd @ 0827)

9/6 Anita - claims svc call for 9/5 was in open time not in AM time. Informed her about call telling me someone would be out between 0800-1200 and requested "OnTime Service Guarantee" credit. Tech to be out on 9/7
9/8 Sharia - still no svc call made - demanded further credit, waiting for technician STILL

9/19 xfer by Dimetrius at RR national office to Houston ofc

9/20 Svc Call - 0800-1200 MISSED

9/20 Contacted Cust Svc - informed tech was delayed and would be out sometime in PM, no later than 1800

9/20 Svc Call - Supposed to be here by 1800 - MISSED

9/20 Svc Call - Svc Dept calls to ask if tech can come 9/21 - denied

9/20 Svc Call - person shows up at 1930, does nothing, claims the matter must be handled by a "fireman" named "Anthony/Tony"

or "Andrew/Andy" (one of the two) and that this person will be coming out 9/21 - he's speaking to the fireman "personally" to make sure he has the ticket in the morning.

9/21 Saad - Cust Svc - claims no routing done on call, soonest will be Sat/Sun (1430)NOT ACCEPTABLE

9/21 LMTc for Mike Pierce (1500)

9/21 LMTc for Greg Gleason (1600)

9/22 Mike Pierce called to check on service - told him RR was ok but pictures still bad - he set up svc call for 9/27

9/27 13:27 Rcvd call from Virtek claiming tech would arrive between 13:00 and 17:00

9/27 17:00 Svc Call - 1300-1700 MISSED

9/27 17:07 Called Kellita - requested \$20 svc credit for failure to show up as promised.

9/27 19:00 Called Shannon - rescheduled for Monday 10/2/00

9/28 15:45 LMTc for Mike Pierce - RR down *again*

10/02 13:00 SVC Call - fixed nothing, made all worse, tech said "pics are as good as they're going to get, can't explain problem with RR"

In the past month I've yet to see a service technician at the times they have "guaranteed". The service, both for RoadRunner and for cable television has been pathetic at best. Analog channels are interesting to watch, with multiple ghosts in some cases. Digital channels are a challenge to tolerate with the signal dropouts and "blocking/tiling". Yet this is "as good as it's going to get" for me, while my neighbor 50 meters away has had almost perfect service during the same period.

Then there's the incident of April, 2000 where I was contacted by RoadRunner support claiming I was involved in Port Scanning. I confronted them immediately on this as their letter to me was very threatening. When I reviewed the "logs" they had of the event, it became immediately clear that they had sent the message to the wrong person as the MAC address and IP addressing in the logs did not match mine. Yet it took almost a week of constant battling with them to prove to them that I was in fact innocent, and I work on IP and Internet networks for a living! It scares me to no end to think of what would happen to the average Joe America after he got such a notice - chances are very high that Joe would be losing his access and then down the road someone would realize that they'd nailed the wrong guy. But that doesn't help Joe, does it?

But this scares me the most. The Terms of Service they propose to utilize after the merger (they're already using it in fact).

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.

Shortly after I subscribed to RoadRunner, I contacted them regarding bandwidth utilization and asked them - are there limits to how much I can upload or download? Is there an additional charge for excess? I was assured by the representative that there were *NO* limits, and that I could upload and download to my heart's content. Yet their own agreement text indicates that isn't the case. Then there's the issue of their ability, at their own "unreviewable" discretion, to terminate access for anyone who violates their standards, which obviously their own employees are not even completely certain of. Are we going to allow a merger between a company with this much disarray and chaos and a company with a record for erring on the side of oppressive behavior? AOL's "TOS Monitors" are legendary in the Usenet and IRC communities for having a "zero-tolerance policy". The problem lies in the fact that the tolerances are based solely on that person's beliefs of what constitutes excess, profanity, etc.

Finally, the merger requires them to open their markets - a practice both companies have clearly shown time and time again that they can NOT be trusted to follow. Yet they ask you to believe that they'll "play nice" because you allow them to merge.

I ask you, no, I implore you. Look at the facts, ALL of the facts, very carefully. You'll see undeniable patterns of market abuses, predatory behavior, price fixing and rate hikes, oppressive forms of censorship and First Amendment violations galore. You'll find a pair of rather large sharks, and I hope you'll agree that it's best to keep these two separated.