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FEDERAL COMMUNICATIONS COMMISSION
445 12th STREET, S.W.
WASHINGTON, D.C. 20554

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CABLE SERVICES BUREAU ACTION

July 26, 2001

AOL TIME WARNER INC. SUBMITS PROGRESS REPORT REGARDING INSTANT MESSAGING INTEROPERABILITY

CS DOCKET NO. 00-30

In a *Memorandum Opinion and Order* released January 22, 2001,¹ the Commission approved the merger of America Online, Inc. and Time Warner, Inc., subject to certain conditions. The Commission's merger conditions included requirements regarding the merged company's instant messaging ("IM") product. In conjunction with these requirements, the Commission found that AOL Time Warner Inc. ("AOL Time Warner") must file a progress report with the Commission, 180 days after the release of the *Memorandum Opinion and Order* and every 180 days thereafter, describing the actions it has taken to achieve interoperability between its IM offerings² and others' IM offerings.³ On July 23, 2001, AOL Time Warner filed its initial IM progress report with the Commission. In the *Memorandum Opinion and Order*, the Commission stated that this report would be placed on public notice for comment. Accordingly, we are releasing this public notice.

Interested parties may file comments regarding AOL Time Warner's IM progress report no later than 20 days after the release date of this public notice. All pleadings are to reference **CS Docket No. 00-30**. An original and 4 copies of all pleadings, in accordance with section 1.51(c) of the Commission's Rules,⁴ must be filed with the Commission's Secretary, Magalie Roman Salas, 445 12th Street, S.W., TW-B204, Washington, D.C. 20554. One copy of each pleading also must be filed with other offices, as follows: (1) International Transcription Service, Inc., at 445 12th Street, S.W., Room CY-B400, Washington, D.C. 20554, telephone (202) 314-3070, TTY (202) 293-8810, facsimile (202) 314-3076, Internet: <http://www.itsdocs.com>; and (2) Royce Dickens Sherlock, Cable Services Bureau, 445 12th Street, S.W., 3-A729, Washington, D.C. 20554. In addition, twelve copies of each pleading must be filed with Linda Senecal, Cable Services Bureau, 445 12th Street, S.W., 3-A734, Washington, D.C. 20554.

¹ *In the Matter of Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations by Time Warner, Inc. and America Online, Inc. Transferees, to AOL Time Warner, Inc., Transferee*, CS Docket No. 00-30, *Memorandum Opinion and Order*, FCC 01-12 (rel. Jan. 22, 2001).

² Within "its IM offerings," we include the IM offered as part of AOL's basic proprietary Internet access service, AIM, ICQ, any IM that is sponsored by AOL Time Warner and is included in Road Runner, and any new IM-based service that uses the NPD that AOL uses for its IM (*See Memorandum Opinion and Order* at note 498).

³ *See Memorandum Opinion and Order* ¶ 197.

⁴ 47 C.F.R. § 1.51(c).

In lieu of filing paper pleadings, parties may also file pleadings using the Commission's Electronic Comment Filing System (ECFS).⁵ Pleadings filed through the ECFS can be sent as an electronic file via the Internet to < <http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. Electronic filers should include their full name, Postal Service mailing address, and the applicable docket number. Parties also may submit an electronic comment by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

This proceeding has been designated as "permit but disclose" for purposes of the Commission's *ex parte* rules.⁶ *Ex parte* presentations will be governed by the procedures set forth in Section 1.1206 of the Commission's rules applicable to non-restricted proceedings.⁷ Parties making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required.⁸ Interested parties shall file an original and one copy of each summary of an oral *ex parte* presentation and any written *ex parte* presentation with the Commission Secretary, Magalie Roman Salas, 445 12th Street, S.W., TW-B204, Washington, D.C. 20554. Parties shall also serve one copy of each such filing on (1) the International Transcription Service, Inc., the Commission's duplicating contractor, at 445 12th Street, S.W., Room CY-B400 Washington, D.C. 20554, telephone (202) 314-3070, TTY (202) 293-8810, facsimile (202) 314-3076, Internet: <http://www.itsdocs.com>; (2) Royce Dickens Sherlock, Cable Services Bureau, 445 12th Street, S.W., 3-A729, Washington, D.C. 20554, and (3) Linda Senecal, Cable Services Bureau, 445 12th Street, S.W., 3-A734, Washington, D.C. 20554.

Copies of AOL Time Warner's IM progress report and other documents filed in this matter may be obtained from the International Transcription Service, Inc., 445 12th Street, S.W., Room CY-B400, Washington, D.C. 20554, telephone (202) 314-3070, TTY (202) 293-8810, facsimile (202) 314-3076, Internet: <http://www.itsdocs.com>. Copies also will be available through the Commission's Electronic Comment Filing System and will be available for public inspection and copying during normal reference room hours at the Commission's Reference Center, 445 12th Street, S.W., CY-A257, Washington, D.C. 20554, telephone (202) 418-7092. In addition, AOL Time Warner's report is available electronically through the Cable Services Bureau's Internet home page at <http://www.fcc.gov/csb>.

Media contact: Michelle Russo (202) 418-2358.
Cable Services Bureau Contact: Linda Senecal (202) 418-7044, or Nancy Stevenson (202) 418-7039.
TTY: (202) 418-7172 or (888) 835-5322.

⁵ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24,121 (1998).

⁶ *America Online, Inc. and Time Warner, Inc. Seek FCC Consent for a Proposed Transfer of Control*, 15 FCC Rcd 5699 (2000). See generally 47 C.F.R. §§ 1.1200-1.1216.

⁷ An *ex parte* presentation is any communication (spoken or written) directed to the merits or outcome of a proceeding made to a Commissioner, a Commissioner's assistant, or other decision-making staff member, that, if written, is not served on other parties to the proceeding or, if oral, is made without an opportunity for all parties to be present. 47 C.F.R. § 1.1201.

⁸ See 47 C.F.R. § 1.1206(b)(2). Other rules pertaining to oral and written presentations are set forth in 47 C.F.R. § 1.1206(b).