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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY



The Walt Disney Company

Marsha J. MacBride
Vice President
Government Relations

October 10, 2000

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TWB204
Washington, D.C. 20054

Ex Parte Presentation in Docket No. 00-30

Dear Ms. Roman Salas:

Pursuant to Section 1.1206 of the Commission's rules, an original and one copy of this letter are being filed as notice that representatives of The Walt Disney Company (Disney) attended a meeting on October 6, 2000 with Commissioner Michael K. Powell, and members of his staff and with Chairman William E. Kennard and Katherine Brown, Chief of Staff of the FCC, to discuss issues relating to the pending merger between AOL and Time Warner. Representing Disney were Michael D. Eisner, Chairman and CEO, Sandy Litvack, Vice Chairman of the Board, Preston Padden, Executive Vice President, Larry Sidman (Legal Counsel, Verner Liipfert Bernhard McPherson and Hand) and myself.

The parties discussed issues raised by Disney in its comments and letters filed in this proceeding. Disney addressed concerns regarding the technical ability of the merged entity to discriminate against non-affiliated program providers. Specifically, Disney discussed various steps it believes government must take to ensure meaningful non-discrimination and open access. Those steps are summarized below.

- I. The AOL/Time Warner cable systems, whether offering video or audio content, interactive content or broadband services, should, in their entirety (including, without limitation, the headend, routers, conditional access, downstream and return path data streams, set top boxes, operating system, navigation links, menus and caching) be required to operate the same for consumers whether the consumer is seeking access to, or to interact with, AOL/Time Warner content and channels or content and channels owned by others.

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- II. AOL/Time Warner should not unreasonably refuse to deal with Unaffiliated Interactive Content Providers, including where the Unaffiliated Content Provider is offering or plans to offer Interactive Content to viewers.
- III. AOL/Time Warner should not unreasonably refuse to deal with Unaffiliated Internet Service Providers. It would not be considered an unreasonable refusal to deal, however, if AOL/Time Warner is carrying four other Unaffiliated Internet Service Providers on that Cable System, two of which are among the top ten Unaffiliated Internet Service Providers in terms of market share.
- IV. AOL/Time Warner should not require a financial interest in any Unaffiliated Interactive Content Provider or Unaffiliated Internet Service Provider as a condition for carriage on AOL/Time Warner.
- V. AOL/Time Warner should not devote more than 40 percent of the bandwidth of any AOL/Time Warner Cable System occupied by any programming genre, including but not limited to news, sports, motion pictures and music, to the carriage of Content owned by AOL/Time Warner or in which it has an attributable interest.
- VI. To the extent that AOL/Time Warner provides access to any Unaffiliated Internet Service Providers on any Cable System, such access should be non-discriminatory, including access to the video portion of the bandwidth through the set-top box.
- VII. To the extent that AOL/Time Warner chooses to carry the content of any Unaffiliated Content Provider on its Cable Systems, it should provide consumers with non-discriminatory access to all related Interactive Content of that Provider.
- VIII. AOL/Time Warner should be prohibited from collecting or using Unaffiliated Interactive Television User information, including but not limited to user transaction histories, user names, screen names, addresses, or other identifying information.

Disney also believes that any disputes between AOL/Time Warner and an Unaffiliated Interactive Content Provider or an Unaffiliated Internet Service Provider regarding AOL/Time Warner's compliance should be settled by arbitration.



Yours truly,

A handwritten signature in black ink that reads "MJ MacBride". The signature is written in a cursive, flowing style.

Marsha J. MacBride

cc: Chairman William E. Kennard
Commissioner Michael K. Powell
Kathryn Brown, Chief of Staff
Kyle Dixon, Office of Commissioner Powell
Susan Eid, Office of Commissioner Powell
James Bird, Office of General Counsel
Darryl Cooper, Cable Services Bureau
Royce Dickens, Cable Services Bureau
Linda Senecal, Cable Services Bureau