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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

October 11, 2000

DOCKET FILE COPY ORIGINAL

BY HAND DELIVERY

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

**Re: Applications of America Online, Inc. and Time Warner Inc. for
Transfers of Control (CS Docket No 00-30)
REDACTED VERSION OF CONFIDENTIAL EX PARTE LETTER
- FOR PUBLIC INSPECTION ONLY**

Dear Ms. Salas:

Pursuant to paragraph 7 of the Protective Order in the above-captioned docket, Microsoft Corporation, by its attorneys, hereby files a redacted copy of a pleading containing Confidential Information. A complete copy of the pleading was filed, under seal, under separate cover and was served on each Submitting Party.

Please do not hesitate to contact me if we may provide you with further information.

Sincerely,


Gerard J. Waldron

Attachment

[REDACTED]

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October 11, 2000

The Honorable William E. Kennard
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Room 8B201
Washington, D.C. 20554

**Re: Applications Of America Online, Inc., and Time Warner Inc.
for Transfers of Control (CS Docket No. 00-30)
Confidential *Ex Parte* Letter**

Dear Chairman Kennard:

A review of confidential information submitted by AOL in response to requests for further information from the Commission (hereinafter "Confidential Documents") provides compelling evidence that

Many parties that compete with AOL on Instant Messaging, such as iCast, Tribal Voice, Odigo, Excite@home, AT&T, and Microsoft have submitted filings in this proceeding urging the Commission to require AOL to implement IM interoperability by a date certain. The undersigned has reviewed the Confidential Documents in accordance with the procedures set forth in the Protective Order in the above-captioned docket and submits this filing in compliance with the procedures in that Order and in light of the other filings in this docket.¹

¹ See Applications of America Online, Inc. and Time Warner Inc. for Transfers of Control, Order Adopting Protective Order, 15 FCC Rcd 6117 (2000) ("Protective Order"); Notification of Document Review of Microsoft Corp. in CS Docket No. 00-30 (filed Sept. 14, 2000).

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1.

An important question for the Commission in reviewing a proposed merger and the objections raised against it is whether the alleged harm is specific to the merger. Many of the submissions by the IM Competitors have contended that the issue of IM interoperability is affected (and made worse) by the proposed merger of AOL and Time Warner (“Applicants”) because the merger brings together the content of Time Warner with the dominant position of AOL’s IM platform.

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2.

One question the Commission has considered is whether AIM and ICQ are interoperable. Though the press has reported that the two services are interoperable, and numerous individuals have stated that they can use AIM and ICQ on an interoperable basis, AOL has contested those assertions.¹³

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3.

As Ivan
Seidenberg, the CEO of Verizon, recently said in a speech delivered at

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the National Press Club, "And if you think about it, the biggest communications network in the world may be AOL's Instant Messaging platform. I mean this literally."²⁸

4.

Some persons have questioned the business model behind IM and whether the Commission should be concerned at all about a service that is "given away for free."

²⁸ Speech by Ivan Seidenberg, CEO, Verizon, at the National Press Club (Sept. 25, 2000).

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(continued...)

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* * *

Please direct any questions to the undersigned.

Sincerely,



Gerard J. Waldron

cc: Ms. Magalie Roman Salas
Commissioner Susan Ness
Commissioner Harold W. Furchtgott-Roth
Commissioner Michael K. Powell
Commissioner Gloria Tristani
Ms. Karen Onyeige
Mr. David Goodfriend
Ms. Helgi Walker
Mr. Kyle Dixon
Mr. William Friedman
Ms. To-Quyen Truong
Mr. Bill Johnson
Ms. Royce Dickens
Mr. Darryl Cooper
Ms. Linda Senecal
Mr. Andy Wise
Ms. Nancy Stevenson
Mr. John Berresford
Mr. Doug Sicker
Mr. Michael Kende
Dr. Robert Pepper
Mr. Jim Bird
