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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

November 20, 2000

BY HAND DELIVERY

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> 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)  
Notice of Ex Parte Communication**

Dear Ms. Salas:

This letter is to inform the Commission that on November 17, 2000, the undersigned, representing Microsoft Corporation, had a telephone conversation with Darryl Cooper of the Cable Services Bureau to discuss instant messaging ("IM") in the context of the above-captioned proceeding.

We discussed the flaws with the Media Metrix study released on November 16, 2000, which AOL filed in this proceeding on November 17, 2000. *First*, we discussed the possible inaccuracy in the numbers cited by Media Metrix. *Second*, we discussed the meaningless nature of the numbers. Media Metrix bases its conclusions on "Unique Users," which it defines as "[t]he estimated number (expressed in thousands) of different individuals who used the application software at least once in the given time period." Thus, an individual who visited an IM provider once, and never used the providers' IM service again, could have been counted. Such counting is meaningless in the current IM market, where many IM providers are offering extraordinary incentives, such as coupons for airline discounts, to entice individuals to register for their services. The more appropriate inquiry is the number of active or regular IM users, *i.e.*, those IM users who in any given time period use the IM service on a regular basis.

*Third*, I noted that these numbers, even if accurate, support the incredible demand for interoperability. The study indicates that 83.1% of MSN Messenger Service users and 78.5% of Yahoo! Messenger users rely on at least one other IM service. These statistics show that, while Yahoo! and MSN may be gaining some visitors, those users are not registering for Yahoo! Messenger or MSN Messenger Service *instead of* AIM. They are registering for Yahoo!'s and

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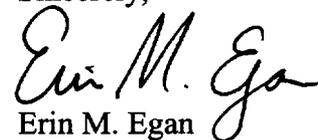
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MSN's services *in addition to* AIM. The fact that IM users have found a next-best alternative to server-to-server interoperability by using more than one IM service simultaneously is not a reason to celebrate. Instead, it demonstrates how many millions of IM users want and would benefit from IM interoperability.

We also discussed the limited remedy sought by IM Unified. As indicated in IM Unified's September 5, 2000, filing in this proceeding, long-term resolution of IM interoperability must be addressed by the private sector Internet Engineering Task Force (IETF), and AOL is a necessary participant in the IETF process. Because AOL has not taken part in a meaningful way in the IETF process to date, IM Unified is asking the Commission to require AOL to actively participate in the IETF process and to adopt the IETF standard for full IM interoperability.

Please do not hesitate to contact the undersigned with any questions.

Sincerely,

  
Erin M. Egan

**Enclosures**

cc: Ms. Deborah Lathen  
Ms. Royce Dickens  
Mr. Darryl Cooper  
Ms. Linda Senecal  
Mr. Jim Bird