

To the FCC Commissioners

Ladies and Gentlemen:

Time Warner has the following Acceptable use policy:

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.

Time Warner, and AOL, which have a similar and even more restrictive policy, claims to have the right to terminate anyone, at any time, for any reason.

At first glance this seems reasonable. After all, they own the system. But do they actually OWN the system?

There is no doubt they own the gate, and it is well known that both AOL and Time Warner have no hesitation in closing the gate. Time Warner does this by enforcing this condition on its subscribers:

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Don't try to tell me that AOL and Time Warner close that gate only on "bad" speech, the pornographers, the hate-mongers, the "spammers," and gives the rest of us "nice" people free reign to post "acceptable" messages. It is well known what these companies find unacceptable - anything whatsoever that rubs them, or anyone else, the wrong way.

It has become common knowledge in USENET and IRC Chat that any person can obtain the canceling of a Road Runner account merely by making complaints to Road Runner abuse. The complaints do not have to be justified, they don't even have to be true, there just needs to be made.

Many Road Runner customers have figured this out, and never upload anything to USENET through Road Runner, or access IRC through Road Runner, but obtain a backup account to protect their high-speed access. Unfortunately, the majority of the people don't find this out until they have been terminated for "abuse" that never happened. What is worse, recently Road Runner has terminated some customers who posted material it considered objectionable which was not even posted through Road Runner, but through this back-up ISP!

It is beginning to appear that Road Runner is actively trying to get rid of anyone who regularly posts political, social, or any other comment to USENET or IRC, and that Road Runner is attempting to convert the internet from a way to express views to a service where they can sell their other Time Warner offerings. This is not what the Internet is supposed to be.

Regular users of USENET and IRC have become extremely concerned that the merger of AOL and Time Warner will result in the disappearance of USENET and IRC. The merged company will not prohibit access entirely, it will just terminate the account of anyone who posts any message offensive to anyone.... and any message will of course be offensive to someone. USENET and IRC will become vehicles where the only matter that can be discussed without fear of termination will be a Road Runner cartoon.

If the merger takes place, the merged company will be in a position where they can effectively remove both USENET and IRC as viable components of the Internet, at least for users with high-speed access. I would like to see some insurance that this cannot happen.

Please, for the benefit of internet users who do use the internet for purposes of speaking out rather than purchasing interactive cartoons or games from Time Warner, if you approve the merger between Time Warner and AOL merger, include some protection for USENET and IRC users so that these valuable internet functions cannot be eliminated from the internet by the new company. Please, in your requirement for open access on the Internet, include open access for the person who actually uses, and pays, for the Internet, the end user, as well as for the corporations.

Thank you for your attention.

Jeremy Kaufman