



Disney Channel

Anne M. Sweeney  
President

February 18, 2000

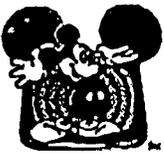
Mr. Joseph Collins  
Chairman & CEO  
Time Warner Cable  
290 Harbor Drive  
Stamford, CT 06702

Dear Joe:

I must say that following our conversation of yesterday, I am even less optimistic that we will be able to bridge the material differences between us. This is particularly true with regard to our desire to bring Time Warner in line with the majority of the cable industry in offering The Disney Channel to consumers as part of a basic service (rather than an expensive premium service). Nonetheless, as I committed to do, I will consult with my colleagues and get back in touch.

In the meantime, I would like to highlight the importance of certain basic non-discrimination assurances that we believe should be a part of our agreement irrespective of where we end up on the business points. Specifically, such assurances should cover non-discrimination against Disney/ABC owned content, as compared to Time Warner (or, after your merger, AOL) owned content, with respect to:

- 1) channel position;
- 2) page placement;
- 3) navigation;
- 4) menu placement;
- 5) return path functionality;
- 6) customer interface;
- 7) caching; and
- 8) overall consumer availability and prominence.



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As you know, both Congress and antitrust regulators have grown increasingly concerned about "screen bias" as a means of steering consumers to affiliated service and content providers and away from unaffiliated providers. Indeed Congress included provisions in both the 1996 Telecommunications Act and the Satellite Home Viewer Improvement Act which, while not specifically applicable to cable, prohibited discrimination in presentation of content to consumers. Time Warner's own 1997 consent order with the FTC in connection with the Turner merger manifests similar concerns on the part of the regulators. The importance of this anti-discrimination issue increases exponentially as cable converts to digital and the Internet continues to expand as a distribution medium. Accordingly, we are looking to secure such non-discrimination assurances with respect to all of your non-broadcast distribution platforms including, without limitation, narrowband internet, broadband internet and cable.

The issue of assuring consumer access to our content on a non-discriminatory basis has always been a priority for us. Even more so in our dealings with Time Warner given our difficult negotiating history (particularly as compared with other cable companies) and Time Warner's enhanced market power to engage in discriminatory conduct should its planned merger with AOL be approved. In this regard, our point of view has been informed by AOL's strong advocacy of open access and the need to assure that ownership of distribution platforms is not permitted to skew competition in content.

In addition we will be seeking your assurance that in retransmitting our digital broadcast signals you will not block consumer access to any "bits" that a consumer could receive for free over the air.

I would be very grateful if you would provide me by early next week with definitive proposed language to provide these non-discrimination and non-blocking assurances.

Best regards,



# The WALT DISNEY Company

Robert A. Iger  
President and Chief Operating Officer

Dear Dick,

As discussed, below is a list of the various "access/non-discrimination" categories we would like to address with you.

As we discovered during our negotiation, our interests converge on many of these issues, as we seek to distribute our respective content over myriad platforms. We believe we will mutually benefit from a rigorous level of "content protection," and copyright enforcement, as new technologies prey upon our content without regard to value or ownership.

Although our two companies have been at odds on numerous issues, I believe it is also time for us to consider opportunities to work together, particularly in the area of interactive television. The access you provide will create a fertile ground for us both to develop a rich array of enhanced and interactive television features, which will ultimately offer your cable business countless new marketing opportunities.

In essence, we have 7 core concerns, and are primarily seeking a level of distribution comparable to what your company will afford its own program services and content. Many of these issues were raised during our negotiation, as well as during our meeting with Michael and Jerry.

I realize these are broad categories, and therefore believe we should discuss these in person as soon as possible:

**Downstream program and data pass through:**

AOL/TW channels and content will not receive preferential bandwidth or data rate treatment, and TW cable systems will not block consumer reception of services and features we provide, that are also passed through on a comparable basis in AOL/Time Warner program services.

**Return Path Functionality:**

AOL/TW will provide Disney/ABC with the same access to return path functionality as it provides its own program services, (or to third parties) for the purposes of interacting with our consumers.

**Menus, Guides, Navigation and Channel Placement:**

AOL/TW Channels and content (and third party content) will not be featured more prominently than Disney/ABC channels and content. This would include channel positioning, featured placement on electronic program guides, and home page or front screen positioning.



R. Parsons  
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Caching:

AOL/TW will cache, or provide Disney/ABC the opportunity to cache content equal to the level and manner of caching provided to AOL/TW owned content, resulting in a comparable consumer experience.

Enhanced/Interactive television:

Disney/ABC services will be provided comparable "point and click" functionality to AOL/TW program services, for the purposes of providing its customers with enhanced television services, or interactive television.

Video Image Size and Quality

Without Disney/ABC's permission, AOL/TW will not reduce the image size from full-screen or the quality of the audio and video signal as originated by the Disney/ABC services.

License Agreement:

AOL/Time Warner acknowledges and agrees that it must negotiate licenses with Disney/ABC for interacting with our content, or for authorizing and or enabling such interactivity by others.

I look forward to discussing these issues, and any ideas you have about ways that they might be meaningfully addressed in the context of an ongoing negotiation.

Sincerely,

A handwritten signature in black ink, appearing to be "R. Parsons".

5/31/00

Mr. Richard Parsons  
President  
Time Warner Inc.  
75 Rockefeller Plaza  
29<sup>th</sup>. Floor  
New York, New York 10019

cc. Michael D. Eisner

# TIME WARNER

Richard D. Parsons  
President

June 15, 2000

Mr. Robert Iger  
President & Chief Operating Officer  
The Walt Disney Company  
500 South Buena Vista Street  
Burbank, CA 91521

Dear Bob:

Thanks for your letter of May 31<sup>st</sup>. Like you, I believe that despite our healthy rivalry as competitors—and any occasional flare-ups that may result—we're on the same wavelength when it comes to some fundamental issues of public policy. In fact, if there's a silver lining to our recent contretemps, I'm hopeful it's in our shared willingness to engage in a wide-ranging discussion of the digital transformation that is redefining the competitive environment for all of us.

Obviously the questions involved are complex and reaching commercial arrangements in the broad categories you set out won't happen overnight. This is further complicated by the regulatory review we are presently undergoing with regard to our pending merger with America Online. Yet, while it would be unwise to prejudice our position by seeking a private agreement with a single competitor, I believe that a more workable alternative is available to us.

As I see it, we have the opportunity to make clear that, along with our long-term desire to resolve specific business differences, we are in agreement on matters of basic importance to the consumers we serve and the talent we employ. If we do it right, a public statement on the principles we hold in common could go a long way toward focusing attention on concerns vital to the future of our companies as well as the entire industry.

Such a statement should address the two issues you raise—i.e., “a rigorous level of ‘content protection’ and copyright enforcement,” and a commitment to providing consumers with the broadest possible selection of content. (I know that Michael has been active on these issues, and so has Jerry. The common ground they share is real, not contrived.) Without implying any definitive language, I think a joint statement might read something like this:

The digital future has arrived. The explosive proliferation of the Internet and the convergence of media into an instantly available, universally accessible interactive framework are already transforming our society and our economy. The long-term implications for expanding individual freedom, enhancing community empowerment and strengthening human solidarity are profound.

In order for these immensely exciting opportunities to be fully

realized, the creative and economic momentum driving the digital revolution must be sustained. Governments must refrain from imposing artificial constraints that impede private-sector investment and raise barriers to innovation. The private sector must actively promote the powerfully democratic nature of the digital marketplace, while at the same time insisting on copyright protection, which is the lifeblood of intellectual and creative labor.

For our part, we enthusiastically embrace the competitive challenge of the Internet.

We pledge ourselves to helping ensure that consumers have a broad range of choices from as diverse an ensemble of content providers as technology makes possible. The criteria we use for offering these choices—and the only ones that consumers will settle for—must always be quality and originality, not corporate ownership.

Integral to the creation of content is copyright protection. Without this basic legal protection, artists and intellectuals can be denied the rewards of their work, and deprived of the means and motive to continue. Today the threats to copyright protection are greater than ever before. Unless adequate safeguards are instituted and enforced, the creative community will be stripped of any incentive to invest its time, talent and genius in producing material that is routinely subject to infringement and outright theft.

We believe the Internet is the greatest tool in human history for enhancing creativity and advancing artistic diversity. We pledge ourselves to seeking the necessary levels of copyright protection for all those whose work is the soul and inspiration of this new medium.

I hope you'll agree that a statement like this could help put forward priorities that are vital to each of us. We'd work closely, of course, in shaping language to which Michael and Jerry can be equally comfortable attaching their names.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rick/esp".

cc: G.M. Levin