

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION



In the Matter of
AMERICA ONLINE, INC., and
TIME WARNER INC.

Docket No. C-3989

Motion for Approval of Non-Affiliated ISP and Alternative
Cable Broadband ISP Service Agreement

Pursuant to Paragraph II.A.2. of the Decision and Order (the "Consent Decree") finalized by the Federal Trade Commission (the "Commission") on April 17, 2001,¹ AOL Time Warner Inc. ("AOLTW") moves the Commission for approval of (1) Athena Services, Inc. ("Athena"), and (2) the Alternative Cable Broadband ISP Service Agreement entered into between Time Warner Cable ("TWC") and Athena to provide cable broadband ISP service in TWC's Appleton, Green Bay and Milwaukee divisions.²

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I. Athena.

AOLTW seeks approval of Athena and the Alternative Cable Broadband Agreement between TWC and Athena dated November 19, 2001. That Agreement is based on the same economic model as the Agreement between TWC and EarthLink, Inc. ("EarthLink") that has already been approved by the Commission.

Athena provides an ISP service known as Athenet Data Exchange ("Athenet"). Athenet is the largest locally owned ISP in an area of Wisconsin referred to as the Fox River Valley. It is based in Appleton and currently serves the metropolitan areas of Appleton, Green Bay and Oshkosh, Wisconsin.

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Athena has provided Internet access to consumers in the region since 1995. In addition to basic Internet access, Athena offers a full array of Internet-related services to its customers, including web hosting services, web design, web development, and web consulting.

Athena raises consumer awareness and interest through a number of channels. Athena promotes its ISP service in its operating area through the use of radio, print and television advertisements. In addition, Athena encourages its subscribers to tell others about its ISP service by providing a payment when a referral leads to the signing of a new subscriber.

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Based on its healthy growth rate and sound financial position, there is ample reason to believe that Athena will be a vigorous competitor as a cable broadband ISP on TWC cable systems.

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III. Conclusion.

The Cable Broadband ISP Service Agreement between TWC and Athena is yet another example of AOLTW's continuing efforts to enter into Cable Broadband ISP Service Agreements with small and regional ISPs across TWC's cable divisions. TWC believes that the addition of Athena's ISP service to the list of ISP services that will be available to consumers in the Appleton, Green Bay and Milwaukee divisions will benefit consumers by enhancing the range of service and pricing options that are available to them. Prompt approval by the Commission of Athena will permit Athena to move

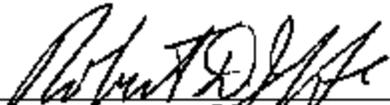
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quickly to begin offering cable broadband service to compete against AOL, Road Runner and EarthLink in those divisions at the earliest possible juncture.

For the foregoing reasons, the approval of Athena by the Commission is warranted and in the public interest. We and AOLTW's representatives are available to meet with the Staff of the Commission to answer questions and provide further information in connection with any of the foregoing matters.

December 14, 2001.

Respectfully submitted,
CRAVATH, SWAINE & MOORE,


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