

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
 )  
Applications of America Online, Inc. )  
And Time Warner, Inc. ) CS Docket No. 00-30  
For Transfers of Control )  
 )  
 )

ORDER

Adopted: November 22, 2000

Released: November 22, 2000

By the Chief, Cable Services Bureau:

1. In this order, we terminate a provision of a prior order that barred the Walt Disney Company (Disney) and its legal counsel from inspecting confidential documents subject to a protective order issued in this proceeding. America Online, Inc., DA 00-2304 (Oct. 10, 2000). We find that Disney and its counsel have complied with the conditions associated with this provision. We barred inspection because Disney notified us, on September 27, 2000, that an attorney associated with one of Disney’s outside counsel violated the terms of the protective order by disclosing summaries of confidential documents obtained from American Online, Inc. (AOL) to persons not authorized to view them. Our prior order precluded Disney and its counsel from further inspection of confidential records until they submitted, and the Commission approved, measures they would adopt to ensure that no future breaches of the protective order would occur.

2. Disney and its outside counsel have now submitted the measures they intend to take to avoid future violations of the protective order. Joint Response, filed October 13, 2000, by Disney and Verner Liipfert, Attachments 5-6. AOL does not object to these proposed measures. See Reply to Walt Disney Company’s Joint Response, filed October 19, 2000, by AOL at 13-15. We find that the measures represent a realistic and good faith attempt to avoid future violations.

3. We will, therefore, permit Disney and its counsel to resume inspecting confidential documents subject to the protective order, provided that they implement the proposed measures. This interlocutory action does not constitute a final disposition of the questions concerning the violation of the protective order. We will address these questions, including whether additional sanctions should be imposed and the details of the proposed corrective measures, in a separate memorandum opinion and order.

4. ACCORDINGLY, IT IS ORDERED, pursuant to the authority delegated under 47 C.F.R. § 0.321, that the provision in Order, DA 00-2304 (Oct. 10, 2000) providing (at ¶ 6) that “Disney and its counsel are precluded from any further inspection of confidential documents submitted under the Protective Order . . . .,” consistent with paragraph 3, supra IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

Deborah Lathen  
Chief  
Cable Services Bureau