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A Media Giant With An Alley Address: AOL Time Warner Merger

By Paul Zakrzewski

In the wake of Thursday's announcement about the biggest merger in U.S. history, both federal investigators and Alley-based new media players say they're satisfied that a combined AOL-Time Warner will guarantee open access to Time Warner cable lines.

One of the stipulations behind the Federal Trade Commission's approval of the merger, which was valued at around $228 billion yesterday, is that the company agrees to open its cable lines to competing Internet Service Providers within the next 90 days.

"We're very pleased (with the outcome), which is a big step towards open access," said Charles Ardai, Juno Online Services president and CEO. "What we've asked for all along is a level playing field. Now Juno and other competitors will be able to use the Time Warner infrastructure at a fair price and in the near future."

Ardai, whose Internet Service Provider play Juno is one of a handful of ISPs in the Alley scene, also thinks that content providers will see indirect benefits from the open access stipulations.

"The immediate direct benefits are for ISPs, but indirectly, content providers who compete with Time Warner's content could now get access" through deals with competing, independent ISPs, he said. Those may be smaller deals than a player could get with AOL's 28 million subscribers, but a deal to reach three or four million subscribers isn't chopped liver either, noted Ardai.

The FTC apparently defines open access to mean more than three suppliers, or a minimum of four providers per market.

In addition, Juno already has some experience working with Time Warner's cable lines. Back in July, Juno and Time Warner said they had a preliminary agreement to offer high-speed Internet access in a pilot program. The third-party deal was contingent on restructuring an ISP agreement that Time Warner already has with Road Runner (which is jointly owned by Time Warner, AT&T and Microsoft Corp.), The roll-out of the Juno service was slated for trial phases in markets in Columbus, Ohio.

Kevin Clark, chief executive officer of business-to-business content syndication play ScreamingMedia, said the merger should help business. "This proves that content and technology makes for a good marriage ... and that integration of those is here to stay."

Interesting to Clark is how Time Warner would view any lessons from its failed Pathfinder Internet play, which officially closed two years ago. Because of the Pathfinder legacy, Time Warner was seen as being too slow to develop a smart way to develop content and reach users online. "Now they have a huge opportunity for all that tremendously valuable content to be unlocked," added Clark. "We're looking forward to more Time Warner content being distributed in more places. Overall, it's a milestone that we view positively."

That the world's largest media company is headquartered in New York, home to Silicon Alley, doesn't hurt the new media industry's visibility as well, other media observers note.

Still, with America's largest ISP getting almost exclusive access to the country's second largest cable network, in addition to Time Warner's ownership of 20 percent of the content market, smaller content and ISP players will be expected to tread carefully when searching out deals.

The merger also leaves some wondering whether other issues, such as the exclusivity of content, aren't as important as open access. "Tests have shown that AOL can drive subscriptions to Time Warner content such as magazines at low cost. The deal is about content, not open access," said A. G. Edwards analyst Michael Kupinksy in an interview with the New York Post.

* *Paul Zakrzewski is the associate editor of atNewYork.com.*

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