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Time Warner, AOL Are Criticized By European Antitrust Enforcers

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WASHINGTON -- European antitrust enforcers are taking a hard line on [America Online](#) Inc.'s acquisition of [Time Warner](#) Inc., concerned that AOL's online service could become a "walled garden" dominating Internet access in Europe.

In a confidential statement of objections given to the parties in the antitrust review, European regulators were sharply critical of the transaction, warning that the combined companies could dominate digital delivery of music and the emerging markets for online delivery of film, sports and entertainment programming.

The 45-page document details the commission's objections, which reach further than previously known and set the stage for a confrontation between European officials and senior executives of AOL and Time Warner next week in a closed session in Brussels.

 **Company profile:**
[America Online](#)

* * *

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An AOL official declined to comment on the issues in the European Commission's statement, citing the document's confidentiality. But she said, "We're confident we will satisfy the commission that the AOL-Time Warner merger poses no competitive problems in Europe."

The commission's greatest concern is that the combined companies will dominate the online delivery of music, especially after the planned acquisition of [EMI Group](#) PLC, the world's largest music publisher and the third-largest recording company. That transaction is raising antitrust objections in Europe and the U.S., and is

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complicating AOL's effort to win merger approval.

But it is clear the commission's concerns go beyond music to the vertical integration of the combined companies, in which AOL and Time Warner "content" such as news and entertainment are wedded to AOL's digital distribution network.

With 27 million customers, AOL is the largest Internet service provider, a dominance that is beginning to create "network effects," the commission said. "More subscribers bring more content, and vice versa ... the more content AOL acquires and the bigger its community of users, the less the reasons for a user to abandon AOL's walled garden, and the greater the reasons for potential Internet users to join AOL." Within these walls, the commission warns, "AOL's customers could be denied access to the mass content [of the Internet] and content which competes too aggressively with AOL."

Digital music, the commission says, will be a powerful draw for new users. "The critical mass of content coupled with AOL's Internet distribution strength in the U.S. will act as a magnet attracting further content to AOL's 'online store.'" In a companion statement, the commission makes it clear it has antitrust objections to the EMI deal, partly on these grounds.

The commission's statements of objections to the two deals begin a process of tough negotiations in which the companies could offer divestitures or other moves to promote competition and save the deals.

In some ways, the antitrust issues in Europe are less complex than in the U.S. Here, AOL's online presence is much greater and Time Warner runs cable systems reaching more than 20% of the nation, giving it a powerful network for high-speed Internet distribution. In the U.S., the AOL-Time Warner transaction is being reviewed separately by the Federal Trade Commission and the Federal Communications Commission. While neither is expected to block the deal, they could seek conditions meant to protect competition or access for rival programming.

The FTC's review is expected to be complete by the end of next month, or early in October. The FCC has said it will conclude its "public interest" review by mid-October. The European Commission is set to rule on the EMI-Time Warner merger Oct. 18, and on AOL-Time Warner on Oct. 24.

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