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Lessons from the AOL Proxy Fight

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AOL's shareholders delivered a resounding victory recently to the Company's management and board in re-electing the full slate of incumbent director nominees — over ISS recommended dissident directors nominated by activist hedge fund Starboard Value LP. The victory represents a clear and powerful message that a well-developed and well-articulated business strategy for long-term success will be supported by investors notwithstanding activist generated criticism and ISS support.

For several months, Starboard waged a damaging proxy fight to elect its own slate of three directors to the AOL board. The board and management of AOL countered Starboard's destructive campaign by presenting, and continuing to execute on, their plan for long-term business value. AOL warned that Starboard had no viable business plan and was pursuing a short-term, value-destructive, and self-interested strategy. Nevertheless, ISS chose to cast its support with two of Starboard's nominees, in part relying on the wrongheaded notion that the dissident nominations posed "little risk". In doing so, ISS chose to support a dissident fund notwithstanding the fund's lack of understanding of the Company's fundamental business model.

Despite Starboard's relentless campaign and undeterred by ISS's recommendation, AOL's management and directors refused to waver from their commitment to a long-term strategy for enhancing shareholder value. With the strong teamwork of management and the board's lead and other independent directors, AOL's leadership forcefully presented their case to investors. They delivered investor presentations, participated in public conference calls and issued "fight letters" to combat the campaign of misleading claims spread by Starboard and expose the faulty logic of ISS's position. They were able to leverage the Company's strong relationships with key portfolio managers, relationships developed long before Starboard had emerged on the scene.

These results confirm that investors will not blindly follow the recommendation of ISS — when presented with a well-articulated and compelling plan for the long-term success of the Company, they are able to cut through the cacophony of short-sighted gains promised by activist investors touting short-term strategies. AOL's shareholders showed that when a Company's management and directors work together to clearly present a compelling long-term strategy for value, investors will listen.