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CHINADOTCOM CORP
Form SC 13D
January 22, 2001

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
SCHEDULE 13D

INFORMATION TO BE INCLUDED IN
STATEMENTS FILED PURSUANT TO RULE 13d-1(a) AND
AMENDMENTS THERETO FILED PURSUANT TO RULE 13d-2(a)

chinadotcom corporation

(Name of Issuer)
Class A Common Shares, par value \$0.00025 per share

(Title of Class of Securities)

G2108N 10 9

(CUSIP Number)

Paul T. Cappuccio, Esq.
Executive Vice President and General Counsel
AOL Time Warner Inc.
75 Rockefeller Plaza
New York, New York 10019
(212) 484-8000

Copy to:

David J. Sorkin, Esq.
Simpson Thacher & Bartlett
425 Lexington Avenue
New York, New York 10017
(212) 455-2000

(Name, Address and Telephone Number of Person
Authorized to Receive Notices and Communications)

January 11, 2001

(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition which is the subject of this Schedule 13D, and is filing this Schedule because of Rule 13d-1(e), Rule 13d-1(f) or Rule 13d-1(g), check the following box [].

CUSIP No. G2108N 10 9

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1 I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY):
AOL Time Warner Inc.
13-4099534

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP:

(a) []

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(b) []

3 SEC USE ONLY:

4 SOURCE OF FUNDS:
Not Applicable (See Item 3)

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED
PURSUANT TO ITEMS 2(d) or 2(e) []

6 CITIZENSHIP OR PLACE OF ORGANIZATION:
Delaware

| | | |
|--|----|--|
| NUMBER OF SHARES | 7 | SOLE VOTING POWER 0 |
| BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH | 8 | SHARED VOTING POWER 18,594,250 (1) |
| | 9 | SOLE DISPOSITIVE POWER 0 |
| | 10 | SHARED DISPOSITIVE POWER 18,594,250 (1) |

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON:
18,594,250 (1) (See Item 5)

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11)
EXCLUDES CERTAIN SHARES: []

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11):
18.5% (1)

14 TYPE OF REPORTING PERSON:
HC

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1 I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY):
America Online, Inc.
54-1322110

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP:
(a) []
(b) []

3 SEC USE ONLY:

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4 SOURCE OF FUNDS:
WC

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED
PURSUANT TO ITEMS 2(d) or 2(e) []

6 CITIZENSHIP OR PLACE OF ORGANIZATION:
Delaware

| | | |
|---|----|--|
| NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH | 7 | SOLE VOTING POWER 0 |
| | 8 | SHARED VOTING POWER 18,594,250 (1) |
| | 9 | SOLE DISPOSITIVE POWER 0 |
| | 10 | SHARED DISPOSITIVE POWER 18,594,250 (1) |

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON:
18,594,250 (1) (See Item 5)

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11)
EXCLUDES CERTAIN SHARES: []

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11):
18.5% (1)

14 TYPE OF REPORTING PERSON:
CO

1 Based on 100,509,458 Class A Common Shares of chinadotcom outstanding as of September 30, 2000, as disclosed by chinadotcom corporation in its Registration Statement on Form F-4 filed with the Securities and Exchange Commission on December 22, 2000.

Item 1. Security and Issuer.

AOL Time Warner Inc., a Delaware corporation ("AOL Time Warner"), and its wholly owned subsidiary, America Online, Inc., a Delaware corporation ("America Online") (collectively, the "Reporting Persons"), hereby file this Statement on Schedule 13D to amend and supplement the Statement on Schedule 13G originally filed on February 15, 2000 ("Schedule 13G") pursuant to Rule 13d-1(d) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), with respect to the Class A Common Shares, par value \$0.001 per share ("chinadotcom Common Stock"), of chinadotcom corporation, a Cayman Islands corporation ("chinadotcom"), having its principal executive offices at 20/F Citicorp Centre, 18 Whitfield Road, Causeway Bay, Hong Kong. As provided in the Joint Filing Agreement filed as Exhibit 1 hereto, the Reporting Persons have agreed pursuant to Rule 13d-1(k) under the Securities Exchange Act of

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1934, to file one Statement on Schedule 13D with respect to their ownership of chinadotcom Common Stock.

This Schedule 13D is being filed solely to reflect the combination (the "Holding Company Transaction") on January 11, 2001 of America Online and Time Warner Inc. ("Time Warner"), in connection with which (1) each of America Online and Time Warner became a wholly owned subsidiary of AOL Time Warner and (2) AOL Time Warner became the ultimate beneficial owner of the chinadotcom Common Stock held of record by America Online (as well as Warrant A and Warrant B (as defined in Item 3)).

The Schedule 13G is hereby amended and supplemented by this Schedule 13D.

Item 2. Identity and Background.

This statement is being filed by AOL Time Warner Inc., a Delaware corporation ("AOL Time Warner"), having its principal executive offices at 75 Rockefeller Plaza, New York, New York 10019, and America Online, Inc., a Delaware corporation ("America Online") (America Online, together with AOL Time Warner, the "Reporting Persons"), having its principal executive offices at 22000 AOL Way, Dulles, Virginia 20166.

AOL Time Warner is the first internet powered media and communications company. Its business interests include: interactive services, cable systems, publishing, music, networks and filmed entertainment. Substantially all of AOL Time Warner's interests in filmed entertainment, most of its interests in cable systems and a substantial portion of its interests in networks are held through Time Warner Entertainment Company, L.P., a Delaware limited partnership in which AOL Time Warner has a majority interest. America Online is a direct wholly owned subsidiary of AOL Time Warner. America Online is the world's leader in branded interactive services and content.

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To the best of the knowledge of the Reporting Persons as of the date hereof, the name, business address, present principal occupation or employment and citizenship of each executive officer and director of each Reporting Person, and the name, principal business and address of any corporation or other organization in which such employment is conducted is set forth in Schedules I and II hereto. The information contained in Schedules I and II is incorporated herein by reference.

During the last five years, none of the Reporting Persons nor, to the best knowledge of the Reporting Persons, any of their executive officers or directors listed in Schedules I and II hereto, has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) or has been a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, Federal or state securities laws or finding any violation with respect to such laws.

This Schedule 13D is being filed while the Reporting Persons are in the process of verifying information required herein from their respective directors and executive officers. If the Reporting Persons obtain information concerning such individuals which would cause a material change in the disclosure contained herein, an amendment to this Schedule 13D will be filed that will disclose such change.

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To the best knowledge of the Reporting Persons, no directors or officers of the Reporting Persons have legal or beneficial ownership of any chinadotcom Common Stock.

Item 3. Source and Amount of Funds or Other Consideration.

The information set forth or incorporated by reference in Items 5 and 6 is hereby incorporated herein by reference.

America Online and chinadotcom entered into a Subscription Agreement, dated as of June 8, 1999 (the "Subscription Agreement"), pursuant to which America Online agreed to purchase 10% of the outstanding chinadotcom Common Stock at a subscription price to be determined based on the price of the initial public offering of chinadotcom Common Stock. Upon the completion of the initial public offering of chinadotcom Common Stock on July 12, 1999 (the "IPO"), the subscription price became fixed at approximately \$34.0 million for 3,397,600 shares of chinadotcom Common Stock. The source of funds for this subscription was working capital of America Online. Because a two-for-one stock split of the chinadotcom Common Stock occurred on May 5, 2000, America Online currently owns 6,795,200 shares of chinadotcom Common Stock. The Subscription Agreement is filed as Exhibit 2 to this Statement and is hereby incorporated herein by reference.

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In connection with and in consideration of the above referenced subscription, on June 8, 1999 chinadotcom issued two warrants to purchase chinadotcom Common Stock to America Online. Warrant A, issued on June 8, 1999 ("Warrant A"), is filed as Exhibit 3 to this Statement and is hereby incorporated herein by reference. Warrant B, issued on June 8, 1999 ("Warrant B"), is filed as Exhibit 4 to this Statement and is hereby incorporated herein by reference. The terms of Warrant A and Warrant B are set forth in Item 5.

On January 11, 2001, the Holding Company Transaction was consummated pursuant to the Second Amended and Restated Agreement and Plan of Merger, dated as of January 10, 2000, by and among AOL Time Warner, America Online, America Online Merger Sub Inc., a Delaware corporation and a direct wholly owned subsidiary of AOL Time Warner ("America Online Merger Sub"), Time Warner and Time Warner Merger Sub Inc., a Delaware corporation and a direct wholly owned subsidiary of AOL Time Warner ("Time Warner Merger Sub"), whereby among other things, America Online Merger Sub merged with and into America Online with America Online continuing as the surviving corporation and becoming a direct wholly owned subsidiary of AOL Time Warner and Time Warner Merger Sub merged with and into Time Warner with Time Warner continuing as the surviving corporation and becoming a direct wholly owned subsidiary of AOL Time Warner (together, the "Mergers"). In addition, upon consummation of the Mergers (i) each outstanding share of America Online Common Stock was automatically converted into one share of AOL Time Warner Common Stock, (ii) each outstanding share of Time Warner Common Stock was automatically converted into 1.5 shares of AOL Time Warner Common Stock, and (iii) each outstanding share of Time Warner Series LMCN-V Common Stock was automatically converted into 1.5 shares of AOL Time Warner Series LMCN-V Common Stock having terms substantially identical to those of the Time Warner Series LMCN-V Common Stock.

As a result of the Holding Company Transaction, AOL Time Warner became the ultimate beneficial owner of the chinadotcom Common Stock held of record by America Online and of Warrant A and Warrant B.

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Item 4. Purpose of the Transaction.

America Online acquired the securities of chinadotcom described herein as an investment and holds them in the ordinary course of business and not with the purpose or effect of changing the control of chinadotcom.

As described in Item 3 above, AOL Time Warner became the ultimate beneficial owner of the chinadotcom Common Stock as a result of the consummation of the Holding Company Transaction.

AOL Time Warner and America Online intend to review and evaluate their investment in chinadotcom from time to time. On the basis of such review and evaluation, AOL Time Warner and America Online may acquire additional chinadotcom securities from time to time in market transactions or

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otherwise or may dispose of some or all of their holdings of chinadotcom securities from time to time in market transactions or otherwise.

Other than as described above, neither AOL Time Warner or America Online has any current plans or proposals that relate to or would result in (i) the acquisition or disposition of securities of chinadotcom; (ii) an extraordinary corporate transaction, such as a merger, reorganization or liquidation, involving chinadotcom or any of its subsidiaries; (iii) a sale or transfer of a material amount of assets of chinadotcom or any of its subsidiaries; (iv) any change in the present board of directors or management of chinadotcom, including any current plans or proposals to change the number or term of directors or to fill any existing vacancies on the board of directors of chinadotcom; (v) any material change in the present capitalization or dividend policy of chinadotcom; (vi) any other material change in chinadotcom's business or corporate structure; (vii) changes in chinadotcom's charter, by-laws or instruments corresponding thereto or other actions which may impede the acquisition of control of chinadotcom by any person; (viii) causing a class of securities of chinadotcom to be delisted from a national securities exchange or to cease to be authorized to be quoted in an inter-dealer quotation system of a registered national securities association; (ix) causing a class of equity securities of chinadotcom to become eligible for termination of registration pursuant to Section 12(g)(4) of the Securities Exchange Act of 1934, as amended; or (x) any action similar to any of those enumerated in clauses (i) through (ix) of this sentence.

Item 5. Interest in Securities of chinadotcom.

The information set forth or incorporated by reference in Items 3 and 6 is hereby incorporated herein by reference.

Warrant A became exercisable by America Online on October 12, 2000, and it provides that America Online may, at any time until July 12, 2003, purchase a number of shares of chinadotcom Common Stock which, when added to the number of shares of chinadotcom Common Stock owned, legally or beneficially by America Online, would equal 18.5% of the then total outstanding shares of chinadotcom Common Stock on a fully diluted basis. The exercise price for Warrant A is \$5.00 per share.

Warrant B will become exercisable by America Online on July 12, 2001, and it provides that America Online may, at any time thereafter until July 12, 2003, purchase a number of shares of chinadotcom Common Stock equal to 6.5% of the then total outstanding shares of chinadotcom Common Stock on a

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fully diluted basis. The exercise price for Warrant B is \$42.50 per share.

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Warrant A and Warrant B may only be sold, transferred, assigned or hypothecated, to any person, other than any limited partnership with the same general partner, or to any company that, directly or indirectly, controls or is controlled by or is under common control with America Online.

On January 11, 2001, in connection with the Holding Company Transaction described in Item 3 above, America Online became a direct wholly owned subsidiary of AOL Time Warner. As a result, AOL Time Warner and America Online may be deemed to have shared power to vote and dispose of the 6,795,200 shares of chinadotcom Common Stock, Warrant A and Warrant B, all of which are registered in the name of America Online and owned beneficially by AOL Time Warner.

Except as described herein, to the best knowledge of the Reporting Persons as of the date hereof, (i) none of the Reporting Persons nor any of the executive officers or directors of the Reporting Persons, beneficially owns any shares of chinadotcom Common Stock, and (ii) there have been no transactions in the shares of chinadotcom Common Stock effected during the past 60 days by the Reporting Persons, nor, to the best of the knowledge of the Reporting Persons, by any of the executive officers or directors of the Reporting Persons.

Item 6. Contracts, Arrangements, Understandings or Relationships with Respect to Securities of chinadotcom.

The information set forth or incorporated by reference in Items 3 and 5 is hereby incorporated herein by reference.

The Subscription Agreement also provides that so long as America Online holds not less than 5% of the issued and outstanding shares of chinadotcom Common Stock, America Online will be entitled to designate such number of directors, in any event not less than one director, to sit on the board of directors of chinadotcom as is proportionate to America Online's equity interest in chinadotcom.

The Subscription Agreement contains a provision which requires that if America Online intends to resell or transfer any of the shares of chinadotcom Common Stock purchased by it pursuant to the Subscription Agreement (the "Offered Securities"), America Online must first offer the sale of the Offered Securities to the other shareholders of chinadotcom set forth on Exhibit C to the Subscription Agreement (the "First Offer Shareholders"), at the same price and on no less favorable terms as America Online offers the Offered Securities to any other third party. The First Offer Shareholders have the option to purchase (subject to cutback, if necessary, on a basis that is proportional to their holdings of chinadotcom Common Stock) such Offered Securities for 30 days following their receipt of notice of America Online's intent to sell the Offered Securities.

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In connection with the Subscription Agreement, chinadotcom and America Online also entered into a Registration Rights Agreement dated as of June 8, 1999 (the "Registration Rights Agreement"). The Registration Rights Agreement is filed as Exhibit 5 to this Statement and is hereby incorporated

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herein by reference. The Registration Rights Agreement provides that America Online has the right to make a single request that chinadotcom register shares of chinadotcom Common Stock held by America Online under the Securities Act of 1933 (the "Securities Act"). This right is subject to customary limitations and cutback provisions in favor of chinadotcom. In addition, America Online is entitled to "piggyback" registration rights in cases where chinadotcom files registration statements with respect to sales of chinadotcom Common Stock. These "piggyback" rights will terminate once America Online's equity interest in chinadotcom falls below 5% or its sale of shares is permitted pursuant to Rule 144(k) under the Securities Act and are also subject to customary limitations and cutback provisions in favor of chinadotcom.

To the best of the knowledge of AOL Time Warner and America Online, except as described in this Schedule 13D, there are at present no other contracts, arrangements, understandings or relationships among the persons named in Item 2 above, and between any such persons and any persons, with respect to any securities of chinadotcom.

Item 7. Material to Be Filed as Exhibit.

| Exhibit Number | Description |
|----------------|---|
| 1 | Joint Filing Agreement, dated January 22, 2001, between AOL Time Warner Inc. and America Online, Inc. |
| 2 | Subscription Agreement by and between chinadotcom corporation and America Online, Inc. dated as of June 8, 1999, incorporated herein by reference to Exhibit 10.1.21 to Amendment No. 1 to Form F-1 Registration Statement of chinadotcom corporation (Reg. No. 333-10498) as filed on June 30, 1999. |
| 3 | Warrant "A" to Purchase Class A Common Shares of chinadotcom corporation, issued June 8, 1999 |
| 4 | Warrant "B" to Purchase Class A Common Shares of chinadotcom corporation, issued June 8, 1999 |
| 5 | Registration Rights Agreement by and between chinadotcom corporation and America Online, Inc. dated as of June 8, 1999 |

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SIGNATURE

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

AOL TIME WARNER INC.

By: /s/ J. Michael Kelly

Name: J. Michael Kelly
Title: Executive Vice President
and Chief Financial
Officer

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AMERICA ONLINE, INC.

By: /s/ Randall J. Boe

Name: Randall J. Boe
Title: Senior Vice President,
General Counsel and
Secretary

Dated: January 22, 2001

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Schedule I

Directors and Executive Officers
Of AOL Time Warner

The following table sets forth the name, business address and present principal occupation or employment of each director and executive officer of AOL Time Warner. Except as indicated below, each such person is a U.S. citizen, and the business address of each such person is 75 Rockefeller Plaza, New York, New York 10019.

Board of Directors

| Name and Title ----- | Present Principal Occupation ----- |
|--|--|
| Stephen M. Case Chairman of the Board | Chairman of the Board; AOL Time Warner Inc. |
| Gerald M. Levin Chief Executive Officer | Chief Executive Officer; AOL Time Warner Inc. |
| Kenneth J. Novack Vice Chairman | Vice Chairman; AOL Time Warner Inc. |
| R.E. Turner Vice Chairman and Senior Advisor | Vice Chairman and Senior Advisor; AOL Time Warner Inc. |
| Daniel F. Akerson | Chairman of the Board and Chief Executive Officer; XO Communications, Inc. 1505 Farm Credit Drive McLean, VA 22101 (a broadband and communications company) |
| James L. Barksdale | Partner; The Barksdale Group c/o AOL Time Warner Inc. (a venture capital firm) |
| Stephen F. Bollenbach | President and Chief Executive Officer; Hilton Hotels Corporation |

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9336 Civic Center Drive
 Beverly Hills, CA 90210
 (hotel ownership and management)

Frank J. Caufield

Partner;
 Kleiner Perkins Caufield & Byers
 Four Embarcadero Center
 San Francisco, CA 94111
 (a venture capital partnership)

Miles R. Gilburne

Director;
 AOL Time Warner Inc.

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Carla A. Hills

Chairman and Chief Executive Officer;
 Hills & Company
 1200 19th Street, NW
 Washington, DC 20036
 (international trade and
 investment consultants)

Reuben Mark

Chief Executive Officer;
 Colgate-Palmolive Company
 300 Park Avenue
 New York, NY 10022
 (consumer products)

Michael A. Miles

Former Chairman of the Board and Chief
 Executive Officer of Phillip Morris
 Companies Inc.; Director of Various
 Companies
 Three Lakes Drive
 Northfield, IL 60093

Richard D. Parsons
 Co-Chief Operating Officer

Co-Chief Operating Officer;
 AOL Time Warner Inc.

Robert W. Pittman
 Co-Chief Operating Officer

Co-Chief Operating Officer;
 AOL Time Warner Inc.

Franklin D. Raines

Chairman and Chief Executive Officer;
 Fannie Mae
 3900 Wisconsin Avenue, NW
 Washington, DC 20016-2806
 (a non-banking financial services company)

Francis T. Vincent, Jr.

Chairman of Vincent Enterprises
 (Private Investor) and
 Director of Various Companies
 Vincent Enterprises
 300 First Stamford Place
 Stamford, CT 06902

Executive Officers Who Are Not Directors

 Name

 Title and Present Principal Occupation

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| | |
|---------------------|--|
| Richard J. Bressler | Executive Vice President; AOL Time Warner Inc. |
| Paul T. Cappuccio | Executive Vice President, General Counsel and Secretary; AOL Time Warner Inc. |
| David Colburn | Executive Vice President; AOL Time Warner Inc. |

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| | |
|------------------------|--|
| J. Michael Kelly | Executive Vice President and Chief Financial Officer; AOL Time Warner Inc. |
| Kenneth B. Lerer | Executive Vice President; AOL Time Warner Inc. |
| William J. Raduchel | Executive Vice President and Chief Technology Officer; AOL Time Warner Inc. |
| Mayo S. Stuntz, Jr. | Executive Vice President; AOL Time Warner Inc. |
| George Vradenburg, III | Executive Vice President for Global and Strategic Policy; AOL Time Warner Inc. |

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SCHEDULE II

Directors and Executive Officers
Of AMERICA ONLINE, INC.

The following table sets forth the name, business address and present principal occupation or employment of each director and executive officer of America Online, Inc. Except as indicated below, each such person is a U.S. citizen, and the business address of each such person is 75 Rockefeller Plaza, New York, New York 10019.

Board of Directors

| Name and Title ----- | Present Principal Occupation ----- |
|---|--|
| Paul T. Cappuccio | Executive Vice President, General Counsel and Secretary; AOL Time Warner Inc. |
| J. Michael Kelly | Executive Vice President and Chief Financial Officer; AOL Time Warner Inc. |
| Barry M. Schuler Chairman and Chief Executive Officer | Chairman and Chief Executive Officer; America Online, Inc. |

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Executive Officers Who Are Not Directors

| Name | Title and Present Principal Occupation |
|-----------------------|--|
| Janice Brandt | Vice Chair and Chief Marketing Officer; America Online, Inc. |
| Theodore J. Leonsis | Vice Chair and New Product Officer; America Online, Inc. |
| Raymond J. Oglethorpe | President and Chief Operating Officer; America Online, Inc. |
| Joseph A. Ripp | Executive Vice President, Chief Financial Officer and Treasurer; America Online, Inc. |
| Mark E. Stavish | Executive Vice President, Human Resources; America Online, Inc. |
| Randall J. Boe | Senior Vice President, General Counsel and Secretary; America Online, Inc. |
| Ann Brackbill | Senior Vice President, Corporate Communications; America Online, Inc. |

Exhibit 1

JOINT FILING AGREEMENT

AOL Time Warner Inc., a Delaware corporation and America Online, Inc., a Delaware corporation, each hereby agrees, in accordance with Rule 13d-1(k) under the Securities Exchange Act of 1934, that the Schedule 13D filed herewith, and any amendments thereto, relating to the shares of common stock, par value \$0.00025, of chinadotcom corporation, a Cayman Islands corporation, is, and will be, jointly filed on behalf of each such person and further agree that this Joint Filing Agreement be included as an Exhibit to such joint filings. In evidence thereof, the undersigned hereby execute this Agreement as of the date set forth below.

Dated: January 22, 2001

AOL TIME WARNER INC.

By: /s/ J. Michael Kelly

Name: J. Michael Kelly
Title: Executive Vice President
and Chief Financial
Officer

AMERICA ONLINE, INC.

By: /s/ Randall J. Boe

Name: Randall J. Boe
Title: Senior Vice President,

General Counsel and
Secretary