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N.Y. to sue AOL this  
week? January 27, 1997: 5:05 p.m.  
ET

**N.Y. attorney general  
'dead serious' about  
lawsuit if deal not reached**  
NEW YORK (CNNfn) -- New  
York Attorney General  
Dennis Vacco reaffirmed  
Monday that he will sue  
America Online -- possibly  
as early as Thursday --  
unless he's convinced the  
online giant is doing all it  
can to handle increased  
system loads.

"If they're not serious about negotiating, we're serious about suing," Vacco said during an appearance on CNNfn's "Digital Jam."

Last week, Vacco filed a five-day notice of intent to sue AOL on behalf of 660,000 New York customers who have faced delays accessing the online service because of AOL's recent capacity problems. [\(159K WAV\)](#) or [\(159K AIFF\)](#)

AOL's network has been besieged ever since many of the service's 8 million subscribers opted for a new \$19.95 unlimited usage plan.

Many users have been staying on line for long periods, making it hard for others to connect.

Consumers and state officials claim AOL is failing to provide the unlimited access that some customers are paying for.

In addition to threatened legal action from state officials, users have also filed class-action lawsuits.

Representatives from New York and 20 other states met with AOL officials last week to hear how the company plans to deal with the problem.

New York's five-day notice of intent to sue expires this Thursday, meaning the state can take AOL to court any time thereafter.

"We're deadly serious (about possibly suing), which is why we put out the five-day notice," Vacco told CNNfn. "The five days is a statutory device that puts (AOL) on notice. They have that time to come to the table and resolve our concerns."

Vacco criticized AOL chief Steve Case's comments last Friday, in which the

online-service executive ruled out refunds to customers who have had trouble logging on.

"We made it clear (in negotiations last Thursday with the online service) that one of the pieces of the solution ... to the problems we're encountering with is some form of rebate or refund," Vacco said.

"For (Case) to say 24 hours after that discussion that a refund or rebate isn't going to happen is disturbing," he said.

Vacco also criticized the fact that AOL continues to run advertisements promoting the \$19.95 unlimited-access deal despite existing customers' connection problems.

He said punitive damages that AOL could face in court "(are) not unsubstantial."

Vacco added that he believes state officials had given [AOL](#) adequate time to prepare for the surge in users that the firm's new pricing policies created.

"We gave (AOL) a chance when they changed the pricing scheme two months ago," Vacco said. "I think it's spurious to say they couldn't contemplate the demand."■

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