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Trump Warner Bros. meddling pushes limits of executive power

Story by Jennifer A. Dlouhy and Leah Nylen • 4d • 6 min read

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(Bloomberg) -- Hollywood has a rich history of personal vendettas, political discord and uncertain loyalties shaping the industry.

It just usually doesn't involve the US president.

Donald Trump's [declaration](#) that he will [involve himself](#) in the proposed sale of Warner Bros. Discovery Inc. has thrust an already tumultuous [battle](#) between Netflix Inc. and Paramount Skydance Corp. over some of the crown jewels of Tinseltown into uncharted waters.



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The decision to inject himself is particularly extraordinary given Trump's own conflicts and interests, according to legal experts.

Trump has already signaled one personal precondition for a sale: new ownership of longtime bogeyman CNN, in a bid to exert more favorable coverage from the cable network.

But the connections don't stop there for a president who considers himself the dealmaker-in-chief. Trump's son-in-law and former aide, Jared Kushner, has helped [arrange](#) financing for Paramount chief

David Ellison, whose father, Larry Ellison, is a longtime donor and supporter.

The president has received entreaties from both sides. Netflix co-Chief Executive Officer Ted Sarandos has mounted a [charm offensive](#) of his own, meeting repeatedly with Trump and even chatting about how the first family were “big fans” of the streamer. The tech giant has spent recent months expanding its lobbying operation in Washington, seeking to boost its influence across a city now controlled by Trump and his allies.

A white Jeep Wrangler is shown from a front-three-quarter view. The word "PASSPORT" is faintly visible in the background above the vehicle.

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Taken together, it’s a staggering break from a traditionally staid approval process usually under the purview of Justice Department officials, leaving executives and shareholders to navigate a deal that may be decided on political considerations as much as market mechanics. Those factors also hand legal ammunition to critics who say he is prejudicing the outcome.

“It’s in my experience unprecedented,” said Bill Baer, a former assistant attorney general for antitrust during the Obama administration who is now at the Brookings Institution. “He’s reached these views before the investigation has even begun into the two potential bidders for Warner Bros.”

Trump’s comments — coming well before Warner Bros. shareholders vote on Paramount’s offer, much less a formal antitrust review — are the latest example of the president’s efforts to stretch the bounds of his authority and shrink the power of independent federal agencies, such as the Federal Trade Commission.

A close-up photograph of the intricate mechanical movement of an Omega watch. The gold-colored plates are engraved with "OMEGA SWISS" and "SEVENTEN JEWELL".

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During his second term, Trump has moved rapidly to wield executive power to reshape global trade and US industry. That dynamic has put him at the center of government consideration of business decisions, incentivizing corporate executives to curry favor with Trump in order to win approval for high-profile moves.

Experts say the president’s involvement in the Warner Bros. sale risks blurring the lines between his personal interests and the government’s regulatory scrutiny of issues such as market concentration. Antitrust lawyers say Trump’s approach also threatens to undermine any sale, clouding the Justice Department’s review and making any government authorization more vulnerable to legal attacks.

Trump's intervention "illustrates that not only is the president interfering with enforcement policy but is doing so for reasons that have nothing to do with antitrust," said Herbert Hovenkamp, an antitrust expert at the University of Pennsylvania's Penn Carey Law School.

Media Attacks

For Trump, the Warner Bros. sale marks a golden opportunity to reshape the landscape of mainstream media, which he has long criticized. Trump reserved special antipathy for CNN, which along with the company's other cable assets was not included in the Netflix deal. Paramount, on the other hand, is vying for all of Warner Bros.' properties.

Upon taking control of CBS News earlier this year, Ellison hired anti-woke media figure Bari Weiss to be its editor in chief. In an interview with CNBC earlier this week, the Paramount chief said he had "great conversations with the president" on the idea of owning CNN.

But, he added, "I don't want to speak for him in any way, shape or form."

Trump expressed hope for a similar management shakeup if Paramount takes control of CNN, or if the network was spun off.

"I don't think the people that are running that company right now and running CNN — which is a very dishonest group of people — I don't think that should be allowed to continue," Trump said Wednesday. "I think CNN should be sold along with everything else."



[L](#) Paramount, Netflix Battle For Warner Bros. Takeover
© Photographer: Elijah Nouvelage/Bloomberg

White House Press Secretary Karoline Leavitt said that Trump "rightfully believes that network would benefit from new ownership." She added that "he has great respect for both companies who are

bidding against one another” but declined to comment further on the process.

US law bars acquisitions or mergers that may “substantially lessen competition or tend to create a monopoly.” Trump’s comments on Tuesday focused on those considerations, saying he wanted to see details on the potential market share for both Paramount and Netflix. But a day later, he offered his musings about CNN.

That indicates Trump’s concerns aren’t just about market concentration but rather “tilting the scales to a bidder he prefers, trying to neuter CNN as an objective and critical source of news,” Baer said.

Legal Risks

State attorneys general, who can file their own antitrust actions, could seize on Trump’s comments to challenge any federal government greenlight of a sale. The remarks also could provide fodder for legal challenges by any company involved in the process if they are aggrieved by the final decision.

During Trump’s first term, states filed suit against mergers involving T-Mobile US Inc. and Sprint LLC, despite the administration’s sign-off.

Now, the implications also could extend to the European Union, galvanizing the bloc’s own antitrust enforcement efforts. As it stands, Paramount’s support from Middle Eastern sources bankrolling \$24 billion of the buyout could pique further interest from Brussels watchdogs under strict foreign subsidies rules.

Trump has been vocal about mergers before; during the president’s first term, as AT&T Inc. sought to purchase Time Warner Inc., the president lobbed frequent criticisms at CNN. The Justice Department sought to block the sale, though federal courts eventually allowed it.

Here, it appears even a more efficient merger could be “blocked or denied because of the political interest of the administration,” said Ann Lipton, a professor at the University of Colorado Law School.

“Normally shareholders would just ask which offers better value, not who is closer personally to the Trump administration,” Lipton said. “The concerns about any kind of merger should be the effect on the industry, markets and labor.”

Presidential Interventions

Few presidents have directly intervened in merger cases.

Theodore Roosevelt ordered the Justice Department to sue to block J.P. Morgan from combining three railroads into the Northern Securities Co. The Supreme Court ultimately affirmed lower court decisions dissolving Northern Securities.

According to his biographer, Lyndon Johnson told the president of the Houston National Bank of Commerce — then also the publisher

Department to allow the bank to merge with another if the newspaper provided its editorial support to his administration. The newspaper agreed, and the deal was allowed to close.

And in one of the lesser-remembered aspects of the Watergate scandal, Richard Nixon ordered the Justice Department not to file an appeal in a case challenging an International Telephone and Telegraph Corp. acquisition. The company later donated \$400,000 in support of holding the Republican National Convention in San Diego.

Although ITT was never charged criminally, Nixon’s former Attorney General Richard Kleindienst later pleaded guilty to lying to Congress when he testified the White House wasn’t involved in decisions on the transaction. Lawmakers passed legislation in 1974 requiring companies to disclose all communications with the executive branch, including the White House, related to antitrust settlements.

--With assistance from Christopher Palmeri, Samuel Stolton and Hadriana Lowenkron.

(Adds Ellison remark in paragraphs 15-16. A previous version corrected President Roosevelt’s name.)

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FILE - PSG President Nasser Al-Khelaifi, left, speaks to PSG's Kylian Mbappe as it is announced he has signed a three year extension to his contract, at the Parc des Princes stadium in Paris, France, Saturday, May 21, 2022. (AP Photo/Michel Spingler, File)

A Paris labor court ruled [Paris Saint-Germain](#) must pay more than 60 million euros (\$70 million) to [Kylian Mbappé](#) in a dispute over unpaid wages and bonuses linked to the end of the France superstar's contract in 2024.

Lawyers argued last month before the Conseil de prud'hommes de Paris in a judicial fight involving colossal sums. On Tuesday, the court sided with Mbappé amid accusations of betrayal and harassment in the breakdown of his relationship with PSG.

The award roughly corresponds to Mbappé's initial claim of 55 million euros.

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