



**Submission for the Record from Dr. Courtney Radsch
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**U.S. House Committee on the Judiciary
Subcommittee on the Administrative State, Regulatory Reform, and Antitrust
January 7, 2026
Hearing: “Full Stream Ahead: Competition and Consumer Choice in Digital
Streaming”**

Chair Scott Fitzgerald, Ranking Member Jerrold Nadler, and Members of the Subcommittee:

The Center for Journalism & Liberty (CJL) at Open Markets Institute, based in Washington, D.C., submits this statement for the record, with the goal of providing relevant information to the subcommittee’s work examining competition among digital streaming services and how antitrust law relates to a consumer-facing industry undergoing changes through mergers and acquisitions.

As a non-profit organization dedicated to promoting fair and competitive markets, our mission is to safeguard our political economy from concentrations of private power that threaten liberty, democracy, and prosperity. Open Markets and CJL regularly provide expertise on antitrust law, competition policy, media markets, and technology policy to governments, lawmakers, competition authorities, courts, and journalists around the world.

I. SUMMARY STATEMENT

The proposed merger between Warner Bros. Discovery (WBD) and Netflix¹ would concentrate even more power in the hands of even fewer decision-makers over news,

¹ Osmond Chia et al., “Warner Bros Favours Netflix Offer over \$108bn Paramount Bid,” *BBC.Com*, December 17, 2025, <https://www.bbc.com/news/articles/cz687wv9vqxo>.



entertainment, and distribution. The same would be true for other bidders and potential bidders for WBD such as Paramount-Skydance² and Comcast.³

Such consolidation will harm democracy and the rights of citizens, by reducing choice and viewpoint diversity for U.S. citizens and consumers. It will do so by reducing the diversity of viewpoints among the corporations that control news and entertainment. It will also reduce the diversity and quality of the news that is reported, the stories that are broadcast, and the entertainment that is produced.⁴

The Open Markets Institute therefore opposes any deal that would see WBD purchased by any corporation with a major stake in news, entertainment, or distribution of information. Further, we call on Congress and competition law enforcers to take a much broader strategic approach to the U.S. news and entertainment industries by passing laws that would make it easier for independent publishers to maintain their independence, in ways that ensure citizens benefit from a wider diversity of viewpoints.

A. Further consolidation of media and entertainment threatens democracy and the rights of citizens by reducing freedom of expression and the press.

Major Media mergers can result in serious harm to freedom of expression and diversity of opinion. These threats posed by media consolidation are structural, not partisan. When ownership concentration collapses the distance between editorial decision-making, the interests of sprawling corporations, and political power, the risk of censorship increases.

Media consolidation can also hurt freedom of the press. In this instance, the same conglomerates seeking to buy WBD also own news publishers. The most recent and clearest example of how such conflicts of interest can affect news reporting is the Paramount-Skydance deal. To get this deal approved by the Federal Communications

² Harshita Mary Varghese et al., “Warner Bros Fight Heats up with \$108 Billion Hostile Bid from Paramount,” *Transactional*, *Reuters*, December 8, 2025, <https://www.reuters.com/legal/transactional/paramount-makes-1084-billion-bid-warner-bros-discovery-2025-12-08/>.

³ Lillian Rizzo, “Comcast President Outlines Unsuccessful WBD Offer, Future of Peacock,” *CNBC*, December 8, 2025, <https://www.cnbc.com/2025/12/08/comcast-president-unsuccessful-wbd-offer-future-of-peacock.html>.

⁴ Center for Journalism & Liberty, “Consolidating Streaming Under Netflix Is Bad for Everyone. US Antitrust Authorities Should Flip the Script & Promote Industry Independence,” *Center for Journalism & Liberty*, December 5, 2025, <https://www.journalismliberty.org/publications/netflix-deal-block-warner-bros-discovers>.



Commission (FCC), Paramount’s previous ownership appears to have decided to cancel the comedy and news commentary show *Late Night with Stephen Colbert*, which has long been opposed by President Trump. Around the same time, billionaire media mogul David Ellison, who was seeking to acquire Paramount and combine it with his corporation Skydance, pledged to FCC Chairman Brendan Carr⁵ that the newly merged corporation would exercise more control over editorial decisions at CBS News (owned by Paramount), implicitly in ways that would meet the approval of the Trump Administration.

Then, shortly after the deal closed, Ellison’s newly installed CBS News’ editor-in-chief, Bari Weis, prevented *60 Minutes* — one of the most reputable shows of investigative journalism globally — from airing a package that examines the treatment of deported migrants under the Trump administration.

B. Further consolidation in media and entertainment harms consumers by reducing quality and choice and by raising prices.

Among filmmakers, screen writers, and documentarians, there is consensus that a takeover by Netflix of WBD — or by any of the other main rivals now seeking to buy WBD — would reduce “the volume and diversity of content for all viewers”⁶ as well as curtail “creative opportunities and [...] freedom to tell stories that need to be told.”⁷

One likely victim would be HBO Max. Despite Netflix’s publicly promise that it would not shut down HBO Max, industry professionals expect the opposite, especially as Netflix has announced plans to integrate HBO and HBO Max content to its own platform lineup.⁸ Absent a consent decree between the government and the corporation, such pre-merger avowals are not legally binding.

⁵ Gene Maddaus, “FCC’s Brendan Carr ‘Pleased’ With Skydance Commitment to Reform CBS,” *Variety*, July 24, 2025, <https://variety.com/2025/tv/news/fcc-brendan-carr-skydance-reform-cbs-1236469119/>.

⁶ Writers Guild of America West, “WGA Statement on the Acquisition of Warner Bros. Discovery by Netflix,” December 5, 2025, <https://www.wga.org/news-events/news/press/2025/wga-statement-on-the-acquisition-of-warner-bros-discovery-by-netflix>.

⁷ International Documentary Association, “IDA Statement Opposing A Merger Involving Warner Bros. Discovery,” December 5, 2025, <https://documentary.org/advocacy/ida-statement-opposing-merger-involving-warner-bros-discovery>.

⁸ Todd Spangler, “Netflix to Acquire Warner Bros. in \$82.7 Billion Deal,” *Variety*, December 5, 2025, <https://variety.com/2025/tv/news/netflix-to-acquire-warner-bros-82-7-billion-deal-1236601034/>.



When examining subscription streaming video services, market shares accounting for number of subscribers also reveal most of the content consumed globally on connected TV comes from a handful of providers, with the top five being Netflix, Amazon Prime, Disney+, HBO MAX/Discovery, and Paramount+. ⁹

Obviously, a Paramount takeover of HBO MAX/Discovery would result in a similar five to four concentration.

The concentration of power among a few subscription-based streaming video services, ¹⁰ has taken place against a backdrop of an already heavily concentrated media and entertainment sectors, enabled by years of lax antitrust enforcement. Between 2009 and 2020, large mergers between television distributors and film and television producers in the U.S. totaled over \$400 billion in value. ¹¹

C. Further consolidation in media and entertainment will likely lead to loss of jobs in creative industries ranging from film and television production to publishing.

Less competition will result in fewer jobs. Whether through horizontal or vertical mergers, consolidation in media and entertainment has traditionally translated into job losses. The latest example is the Skydance-Paramount merger, ¹² which resulted in the layoff of 2,000 workers only a month after the deal closing. ¹³

⁹ Anthony Dean, “The Top 10 US Streaming Services (2025 Edition),” *Diverse Tech Geek*, April 29, 2025, <https://www.diversetechgeek.com/top-10-us-streaming-services-2025-edition/>.

¹⁰ We will refer to “subscription streaming video services” as providers of on-demand video programming, distinct from other video sharing platforms such as YouTube, as well as from internet-based live television providers, which carry channels that are identical to traditional cable and satellite services.

¹¹ WGAW, *Broken Promises: Media Mega-Mergers And The Case For Antitrust Reform* (2021), https://www.wga.org/uploadedfiles/news_and_events/public_policy/broken-promises-merger-report.pdf.

¹² Paramount, “Skydance Media and Paramount Global Complete Merger, Creating Next Generation Media Company,” August 7, 2025, <https://www.paramount.com/press/skydance-media-and-paramount-global-complete-merger-creating-next-generation-media-company>.

¹³ Wyatt Grantham-Philips, “Paramount to Lay off 2,000 Employees Shortly after Its Merger with Skydance,” *Business, AP News*, October 29, 2025, <https://apnews.com/article/paramount-layoffs-skydance-merger-job-cuts-d98e6037d36254487112c833781b8f42>.



Similarly, following the Disney-Fox merger in 2019,¹⁴ an estimated 4,000 workers were laid off, affecting not only executive and senior staff, but Fox’s film team in particular.¹⁵ It is also notable that by the time Disney acquired Fox, it had already purchased several other competitors, such as Pixar (2006), Marvel (2009), and Lucasfilm (2012).

Such extreme consolidation reduces the bargaining power of workers, by making it harder to either switch to similarly positioned employers or to negotiate better working conditions. These outcomes reflect monopsony dynamics in labor markets for creative workers. As mergers reduce the number of corporations that produce films, television, and journalism, the result is steadily weaker bargaining leverage and downward pressure on wages and residuals. The 2023 Writers Guild and SAG-AFTRA strikes¹⁶ were not isolated labor disputes, but systemic responses to market power exercised by a small number of vertically integrated corporations.

II. Congress has both the authority and a duty to act to protect diversity in news and entertainment

U.S. antitrust authorities have more than enough evidence and precedent to block this deal. Congress therefore has a duty to demand that law enforcers act on behalf of the public interest by preventing mergers likely to substantially lessen competition in multiple markets. These harms are not speculative. Under established U.S. antitrust law, mergers that substantially lessen competition may be blocked based on likely effects on labor markets, innovation, and non-price dimensions of competition — including quality, diversity, and choice — especially where concentration confers durable gatekeeping power.

III. A forgotten history? Congress has long acted to protect media markets from concentration

¹⁴ Jason Lynch, “Disney and Fox Say Their \$71.3 Billion Merger Will Close on March 20,” *Ad Week*, March 12, 2019, <https://www.adweek.com/convergent-tv/disney-and-fox-say-their-71-3-billion-merger-will-close-on-march-20/>.

¹⁵ Brent Donnelly and Matt Lang, “Fox Layoffs: Distribution and Marketing Leaders Out,” *Variety*, March 21, 2019, <https://variety.com/2019/film/news/layoffs-hit-fox-after-disney-completes-deal-1203169337/>.

¹⁶ Emily Garbutt, “SAG-AFTRA Strikes 2023: Everything You Need to Know,” *GamesRadar+*, November 10, 2023, <https://www.gamesradar.com/actors-strike-sag-aftra-2023-explained/>.



From the first, lawmakers and regulators recognized that concentrated control over media distribution posed risks not only to competition, but to democracy itself. We see this in the Constitution, which empowered the government to provide both the means and infrastructure to ensure the public's access to information.¹⁷

The immediate goal was to ensure pluralistic, competitive markets for information and news.¹⁸ Congress at multiple points in U.S. history established various forms of structural safeguards, ownership limits, and separation rules to prevent concentration of power and control over news and information. These actions were not problematic interventions; they were pro-competition measures designed to ensure that no single entity could dominate both what audiences see and who gets paid to create it.¹⁹

This includes Congressional measures in the 18th Century to subsidize the distribution of newspapers' by the Post Office and in the 19th century to prevent telegraph corporations from consolidating power over news.

Congress continued these efforts in the 20th Century. Since the dawn of the broadcast era brought new challenges to prevent monopolization of radio and then television markets, Congress has worked hard to ensure that the Federal Communications Commission (FCC) and the Department of Justice have enforced antitrust principles to ensure plurality in content while not blocking technological innovation.

As radio stations grew rapidly in the mid-1920s, for instance, Congress created the FCC and gave it independent licensing and other regulatory powers over not only radio but interstate and international telegraph and telephone services. Congress eventually extended the Agency's authority to broadcast and cable television.²⁰ In the early 1940s, the FCC used these powers to force the divestiture of ABC from NBC to prevent NBC from monopolizing the radio industry, leading to greater experimentation with new formats, regional content, innovative programming and competitive pressure to serve a

¹⁷ Daniel Hanley, *America's Fourth Estate: History and Law* (2023), <https://static1.squarespace.com/static/5e449c8c3ef68d752f3e70dc/t/654c530422fc887ad4a8ac59/1699500804942/America%E2%80%99s+Fourth+Estate-+History+and+Law+v2%5B31%5D.pdf>.

¹⁸ Phil Longman, *How to Fund Independent News Media in the 21st Century*, White Paper (Open Markets Institute, 2023), <https://www.journalismliberty.org/publications/report-how-to-fund-independent-news-media-in-the-21st-century>.

¹⁹ Longman, *How to Fund Independent News Media in the 21st Century*.

²⁰ Tim Wu, "A Brief History of American Telecommunications Regulation," (Oxford International Encyclopedia of Legal History 2009).



wider array of audiences through a broader range of cultural content.²¹ It also increased competition in the news sector and reduced any one network's influence over public opinion or editorial decision-making through structural rather than content regulation.

The government also extended this thinking to other entertainment markets. In 1948, the U.S. Justice Department applied the same principle when it forced the big eight Hollywood studios of the era to divest ownership of movie theater chains,²² a move that opened the door to greater independence, innovation, and shared prosperity across the film industry for decades.

In 1970, the FCC went further by enacting its Fin-Syn rules. These were aimed at preventing the three dominant networks (ABC, CBS, and NBC) from monopolizing the production of television programming by limiting the number of hours they could broadcast their own content in prime time. This led to what many have described as a golden age of television as independent television production companies gained the ability to bring groundbreaking programming like the *Mary Tyler Moore Show* and Norman Lear's *All in the Family* to market.²³

The lesson from America's democratic tradition is clear: when distribution bottlenecks are separated from content ownership, markets become more competitive, labor markets more dynamic, consumer choice more diverse, and expressive freedom more robust.

IV. CONGRESS SHOULD ACTIVELY AIM TO DISTRIBUTE POWER AND PROMOTE A DIVERSITY OF VIEWS.

Congress must not treat this consolidation wave as the inevitable result of the present structure of the market or the nature of today's dominant technologies.

Contrary to what WBD and Netflix may argue about the imminent need and business suitability of this merger, Congress can study recent examples that detail how blocking anticompetitive mergers actually incentivizes corporations to seek better business

²¹ Victor W. Pickard, *America's Battle for Media Democracy: The Triumph of Corporate Libertarianism and the Future of Media Reform* (Cambridge: Cambridge University Press, 2015).

²² *United States v. Paramount Pictures, Inc.*, 334 U.S. 131 (1948), <https://supreme.justia.com/cases/federal/us/334/131/>

²³ Amanda D. Lotz, *The Television Will be Revolutionized* (New York: New York University Press, 2007), 85-86.



outcomes that aren't at odds with preserving expressive freedom. For instance, after the Department of Justice in 2022 successfully prevented Penguin Random House from acquiring its competitor, Simon & Schuster (S&S), this opened the door for private equity firm KKR to buy S&S.²⁴ Under this business model, S&S was recapitalized and has retained editorial independence. This has enabled provided political and economically important competition for all authors in the United States, both those who are well known and those who seek to break into the market.

We therefore call on legislators to chart a different course, one that aims to replumb the entire market to revitalize it by promoting independence, competition, and real freedom of thought and creativity.²⁵ Blocking anticompetitive mergers such as a potential Netflix–WBD transaction is a necessary first step. But it is not sufficient on its own. Without updated legislative and regulatory frameworks that reflect how media markets now function and account for technological evolution, other deals and other forms of consolidation will continue to narrow the range of ideas and outlets available to the public, raise prices, reduce quality, and suppress labor markets.

Policymakers should explore creative and historically grounded solutions, including limits on the ability of dominant streaming platforms to own the content they distribute, principles once embodied in the Financial Interest and Syndication rules when broadcast networks held similar power. CJL has similarly called for policymakers to avoid further consolidation in the media sector and draw on the U.S.' long history of regulating new technology platforms in the public interest.²⁶

²⁴ AP News, “Simon & Schuster Purchased by Private Equity Firm KKR for \$1.62 Billion,” *AP News*, August 7, 2023, <https://apnews.com/article/simon-schuster-krk-book-publishing-penguin-random-house-797c3f383bfc1e60ea9a9bd48c6abfab>.

²⁵ Center for Journalism & Liberty, “Consolidating Streaming Under Netflix Is Bad for Everyone. US Antitrust Authorities Should Flip the Script & Promote Industry Independence.”

²⁶ <https://www.journalismliberty.org/publications/letter-urge-fcc-checks-on-corporate-media-consolidation>; Daniel A. Hanley. *America's Fourth Estate: History and Law*. Center for Journalism & Liberty at Open Markets Institute, 2023.

<https://static1.squarespace.com/static/5e449c8c3ef68d752f3e70dc/t/654c530422fc887ad4a8ac59/1699500804942/America's+Fourth+Estate+-+History+and+Law+v2%5B31%5D.pdf>; Courtney Radsch and Anya Schiffrin. *Exploring Must-Carry for the News in the Platform Economy*. OSCE, 2025. <https://www.osce.org/files/f/documents/1/2/597645.pdf>.



Today, subscription streaming video services and digital media conglomerates occupy a position of gatekeeping power comparable to the corporations and networks of the past. Yet they operate with far fewer constraints, even as their business models depress wages, reduce creative risk-taking, eliminate jobs, and concentrate editorial authority across entertainment and news markets. The consequences are visible in diminished diversity of voices, weakened editorial independence and financial strength at both the national and local levels, less freedom for advertisers, repeated mass layoffs, and mounting pressure on independent creators to accept take-it-or-leave-it terms.

Democracy depends on a healthy and diversified political economy of news and entertainment. Failing to act will allow streaming services to dictate which news is reported and what stories are told. Congress has both the authority and the historical precedent to act before today's concentration becomes irreversible .