

Testimony of

The Honorable Herb Kohl

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Big changes are coming to the cable industry. Consolidation is picking up. Court rulings are reconfiguring the laws that govern the industry. New technology is blossoming. But one thing remains the same: cable rates continue to rise - about triple the rate of inflation since the passage of the 1996 Telecommunications Act, and more than 7 percent last year.

Today we examine the merger between Comcast and AT&T Cable. If this merger is approved, AT&T and Comcast will become the nation's largest cable company, providing television signals to about 30 percent of the nation's homes. Three companies - AOL/Time Warner, Charter Communications and the new ATT/Comcast - will control 65 percent of the nation's cable market. And, if this wasn't already enough, the only head-to-head competitors to cable in most areas - the satellite television companies Echostar and DirectTV - are also planning to merge, further reducing consumer choice.

While the Echostar-DirectTV deal has faced a barrage of antitrust questions, this deal has not. In fact, it appears that there are few if any traditional antitrust concerns raised by it. Nevertheless, there are some serious issues that need to be looked at. Big is not bad, but we can't ignore the potential for dominance in a cable company as big as ATT-Comcast will be.

Since this merger was announced, we have been asking ourselves over and over: how is this good for consumers? We know it's good for the companies - but what does it do for the average consumer? Ten years from now, if trends like this merger continue, consumers may find almost all of their personal communications and information dominated by a very few, large media conglomerates. Their phone, their movies, their Internet, their cable, their link to the outside world will be priced, processed and packaged for them by one company that faces virtually no competition.

Before we can fully understand the impact of this merger on consumers, we need answers to five key questions:

One, the parties have promised that they will aggressively continue efforts to offer cable telephone service in more markets. This competition to the local telephone monopoly is sorely needed. How can we be sure they will keep their promises?

Two, the parties have promised that they will let consumers choose who will provide them their Internet - but they have been unwilling to make the promise binding. AOL-Time Warner made the promise binding as a condition of their merger, why shouldn't these parties?

Three, we cannot ignore that such a large company will affect and maybe control programming.

Small, independent media voices will have even a harder time gaining access to the video airwaves. For the last ten years, we've had rules to guard against cable companies leveraging their monopolies and blocking access to programming to competitors. These program access rules are expiring this year. Now more than ever, in the face of all this consolidation, these rules need to be extended. Why do the parties oppose renewing these rules?

Four, six years ago we passed a law mandating a competitive market for the so called set top box - the device that delivers the cable signal to the consumer. In the digital age, controlling the technology and software is the ultimate power. All of us remember the time when there was only one type of phone - a clunky and rudimentary device. But when we broke that monopoly, innovation flourished. Only a truly competitive set top box market can unlock the type of innovation that brought us cell phones, faxes, and the Internet itself. We required a competitive set top box market six years ago -- what's going on here?

Finally, after recent court decisions, the long-established cable ownership caps are currently under review by the FCC. With a seeming unrelenting wave of media mergers under way, reasonable ownership limits are the last line of defense against excessive concentration in this industry. Will the FCC live up to responsibilities as guardians of diversity of expression in our video marketplace?

The answers to these questions are essential. I thank our distinguished panel of witnesses for testifying today and I look forward to their views.