

**Questions for the Record**  
**“Examining the Comcast-Time Warner Cable Merger and Impact on Consumers”**  
**Senator Mike Lee**  
**April 16, 2014**

**Gene Kimmelman (President and CEO, Public Knowledge)**

1. *Mr. Kimmelman, in your testimony you expressed concern with regard to the potential degree of market power Comcast could have with respect to the purchasing of video content. This seems to be a question of monopsony—the power of a buyer to dictate terms to a seller.*
  - a. *How could undue monopsony power harm consumers, and with respect to this transaction in particular, what makes you concerned that the company’s purchasing power could harm consumers?*

Public Knowledge’s answer:

A monopsony harms consumers by harming programmers and online service providers. By squeezing programmers (e.g., paying them less, or making them provide more generous terms), gatekeepers can impose costs on their rivals. If a programmer can’t get paid enough from Comcast, it may have to charge more to other MVPDs (or reduce its investment in programming, which is also a consumer harm). Other MVPDs facing higher costs may have to raise their prices, while Comcast would face no competitive pressure to lower its bills. Similarly, if an Internet service has to pay Comcast for access to its millions of subscribers, it will have to either charge its own customers more, find a way to make smaller ISPs pay it, or reduce the quality of its offering. All of these directly harm the cost and quality of the services available to consumers.

2. With respect to the market for video programming, testimony was given during the hearing that the combined company would have less than a 30 percent share of the market. And court decisions have confirmed that a share of less than 30 percent in the video market is insufficient to raise competitive concerns.
  - a. How would you respond to those that argue that based on the fact that Comcast would have less than 30 percent of the video market this transaction does not pose competition concerns?

Public Knowledge’s answer:

First, the 30% number was a maximum. Market shares below that number were never given a safe harbor, but rather judged on their particular facts. Second, that number only applied to the MVPD market and did not account for unique circumstances where MVPDs were also vertically integrated.

Yet some of the largest harms that would arise from this merger arise in the broadband context, which calls for a new analysis. Of course, applying the 30% figure to broadband does Comcast no favors. While Comcast has fewer broadband than cable customers it is more dominant in broadband because of the lack of a broadband equivalent to DBS. Post-merger, Comcast's share of the high-speed broadband market would be about 50%, depending on the counting methodology.