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12/07/2016
Testimony of Mark Cuban

Thank you for inviting me to give my testimony and speak before you today and take questions. I will do my best to answer everything and follow-up on any questions that you require.

My name is Mark Cuban and I have been an active entrepreneur in many fields throughout a career spanning over 3 decades having started or invested in more than 200 companies creating thousands of jobs. I'm particularly proud of the fact that I have been able to turn hundreds of those employees into millionaires across those many companies. I'm also proud of the fact that a TV show I am part of, Shark Tank, helps inspire millions of potential entrepreneurs every week.

The media world has changed. Back in 1995 a partner and I started a company called AudioNet and billed ourselves as "The Broadcast Network on the Internet". We were one of, if not the very first streaming content aggregator and distributor on the internet.

We had a mantra back then, "bits are bits". Once content goes digital, as 100% of it is today, the only question would be how would we get consumers to consume those bits.

Back then the biggest competitors to our online streaming business and consumption of our content were TV and Radio. The world has changed quite a bit since then, but maybe not in ways that are obvious.

Historically, TV had been the dominant medium. We all used to wonder why we spent so much time watching TV. When asked "why TV?", my answer was always the same "TV is the best alternative to boredom. It's the closest we can come to doing nothing while thinking we are doing something. It was always our go to way to kill time".

Those days are gone.

In the past we went to our media. We came home, turned on the TV, plopped down on our chair or the couch, and "Vegged out". Today, our media comes to us. How content comes to us is changing almost daily, and has become an important subject in the world of Anti-Trust in media and distribution.

Today, our best alternative to boredom comes from an app. Firing up an app on whatever device you happen to have in your hand, no matter where in the world you are, is how we kill time.

The idea that TV is the dominant content delivery mechanism no longer is valid. Instead, we fill our time by consuming content from Facebook, Instagram, Snapchat, Messenger, WhatsApp and slowly from Virtual Reality companies like Oculus Rift. Combined, these apps reach more than 1.5 billion users a month. They can deliver any kind of content, in any manner the consumer would like to receive it, be it message, video, VR, post, ad, you name it, to populations around the world in a manner that dwarfs TV.

Facebook is without question in a dominant position, if not the dominant position for content delivery.

Imagine what Facebook, and their respective competitive landscape, would look like if they had not acquired Instagram, Oculus Rift, or WhatsApp. If those were separate companies competing in the marketplace, the content world would look much different and be more competitive.

Facebook may be the biggest player now, but they are not the only major content provider. Snapchat is taking over Millennials as the best alternative for boredom. We all have seen the never-ending stream of selfies, videos, and more take over some of our kids lives.

For those younger than the Snapchat generation, there is musical.ly and live.ly with 10s of millions of users and growing, or MicroSoft's MineCraft (an acquired property) with over 100mm users. I can tell you from personal experience, punishment for my 7-year-old is taking away his Minecraft videos. He could care less if he loses TV privileges.

TV is experiencing a declining share of content consumption. It is losing viewers to the other dominant content players in Netflix, Amazon with Prime, Twitch (an acquired property), Apple with Music (Beats is an acquired property), and finally Google with YouTube (an acquired property), and the ultimate programming guide, Search.

Given our time constraints, I will pick another time to discuss the impact of having only 2 companies, Google and Apple that act as the sole gatekeepers to the app ecosystem.

You may have noticed I have not mentioned AT&T or Time Warner yet, because neither is in any sort of dominant position. By themselves, ATT & Time Warner will have a very difficult time controlling their own destinies, let alone trying to exert influence on a market.

This merger is not only one of survival and opportunity, but one that is needed by consumers.

We need more companies that with the ability to compete with Apple, Google, Microsoft, Amazon and Facebook. Delivering content to consumers in this app driven world is not easy, it is very expensive and difficult.

Apple, Google, Amazon, MicroSoft, and Facebook are 5 of the 7 most valuable companies by market cap in the world. All have established their dominant positions in the app and content worlds by making important, strategic content acquisitions.

That is exactly what the Time Warner acquisition is for AT&T, an important, strategic content acquisition.

Alone, it will be very difficult, if not impossible for either AT&T or Time Warner to compete with any of the companies I've mentioned. Together it will be still be difficult, but a combined entity at least gives them a chance to battle the dominant players in the market place and increase consumer choice and competition for consumer attention

I would also like to point out one other important element of consumer choice that an AT&T and Time Warner merger would improve. Each of the largest content companies I have mentioned so far, FaceBook, Google, Amazon, MicroSoft and Apple present much if not all of their content algorithmically.

As a FaceBook user I don't get to pick what content I get to see in my newsfeed. I can try to influence it, but FaceBook algorithms control what I see. In the future, it won't be algorithms that choose what we see, our choices will be driven by some form of Artificial Intelligence learning from trillions of disparate inputs.

Meanwhile, for those of us who still enjoy our TV the old fashioned way, on our couch, cold beverage in one hand and remote in the other, there is a lot to be said for having a company that can afford to continue to offer us that choice. As much of a geek as I am, I like having the choice of searching through a programming guide to see what's on rather than an algorithm telling me what I should watch. I think a lot of consumers would like to see that choice continue as well.

Respectfully Submitted,

Mark Cuban

