

**Statement Of Senator Patrick Leahy (D-Vt.),  
Ranking Member, Senate Judiciary Committee,  
Senate Judiciary Subcommittee Hearing on “Examining the Competitive Impact of the  
AT&T-Time Warner Transaction”  
December 7, 2016**

Today, the Judiciary Committee examines the competitive impact of AT&T Inc.’s proposed acquisition of Time Warner Inc. The proposed \$85.4 billion merger could dramatically transform our nation’s telecommunications and media landscape, combining two titans of industry. AT&T is the nation’s second-largest wireless carrier, largest pay-television provider, and third-largest broadband provider, while Time Warner is a massive media conglomerate that owns CNN, HBO, and the Warner Bros. Studio. This proposed massive consolidation of distribution and content raises serious questions. The impact of this transaction on competition, consumer choice, and privacy across the media, pay TV, wireless and broadband industries must be carefully analyzed.

Today’s hearing is a crucial conversation about looming concentration in industries that create and distribute the media that millions of Americans consume every day. Americans are consuming media content in increasingly fragmented ways – on their smart phones and ipads, not just on their televisions. At the same time, the distributors and producers of this content are rapidly consolidating. Given that Americans depend upon these companies to learn about and stay connected to the world around them, it is critically important to preserve affordable access to a diversity of views and ideas. This proposed merger raises serious questions about this prospect and we must carefully consider whether it will benefit consumers in Vermont and across America.

More than 130 million Americans depend upon AT&T for their wireless internet access. Last year, AT&T acquired DirecTV’s satellite television service. AT&T is now trying to acquire Time Warner’s content. These acquisitions raise serious concerns about whether AT&T could begin to act as a biased gatekeeper for its own affiliated content and services. Questions are already being raised about AT&T’s decision to not charge its wireless customers for data used to view DirecTV on their phones. Anti-competitive and anti-consumer actions by Internet gatekeepers can be prevented under the FCC’s 2015 Open Internet rules. Those rules establish clear and enforceable bright-line prohibitions on blocking, throttling and discriminating against lawful content on the Internet. Meaningful net neutrality protections ensure that the Internet remains an open platform that fosters innovation and free speech.

Strong net neutrality rules help mitigate concerns about a post-merger AT&T’s ability to harm competitors and consumers. Yet these very net neutrality rules that currently protect consumers appear to be under serious threat by the incoming administration. President-elect Donald Trump has been openly opposed to net neutrality. He has formally named three staunch net neutrality opponents to oversee his FCC transition. Any weakening of these rules will cause serious harm to consumers – harm that could be exacerbated by further mergers in this industry. That harm is not limited to this transaction, but would impact all Americans who rely on the free exchange of ideas and information on the Internet.

Over the past few years, at every hearing held by the Judiciary Committee to discuss a proposed transaction we have heard the same buzzwords used to justify further consolidation. These buzzwords are used in industries as different as beer, health insurance, agricultural seeds, or pay-television. We have heard about the vertical integration of complementary portfolios. We have heard about how there will be no further reduction in competition. We have heard that further consolidation is needed to compete with some other entity not involved in the transaction. We have heard about increased innovation achieved through cost savings. We have heard that the merged companies will retain every incentive to serve consumers well. I have no doubt we will hear many of those same arguments today.

While massive corporations continue to forcefully defend these claims in service of their bottom line, the American people are facing an economy that is increasingly defined by a small number of dominant corporations and a shrinking number of small, independent competitors. I am deeply skeptical that this highly-consolidated economy is leading to better results for consumers in Vermont and across the country.

Even President-elect Trump has noted the downsides of this major movement towards consolidation when he shared his opinion on the campaign trail that this transaction is “too much concentration of power in the hands of too few.” Mr. Trump even went so far as to say his administration would not approve the transaction. Now, in a sudden shift of tone, press reports suggest that the merging parties are being told by members of Mr. Trump’s transition team that the transaction has a good chance of being approved.

Whether or not this transaction and others in the future are ultimately approved will rest with the antitrust authorities, including the people Mr. Trump nominates to positions at the Department of Justice, the Federal Trade Commission, and the Federal Communications Commission. As he makes those selections, as the Senate considers the nominees he selects, and as those people go about their jobs if they are confirmed, we must all recommit ourselves to protecting the hallmark principle of the American economy – competition.

I thank Senator Klobuchar and Senator Lee for holding this hearing today and looking forward to the testimony of the witnesses.

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