AT&T gets green light to buy Time Warner- consumers beware

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A federal judge approved the $85.4 billion merger deal between AT&T and Time Warner (TW) on June 12, 2018, a decision that could well stimulate a flood of corporate takeovers in the entertainment field and beyond. The US Justice Department failed to prove that the merger was anticompetitive with less consumer choice or increased prices for television and internet services.

The demise earlier this week of net neutrality consumer protections is involved since both AT&T and TW possess huge amounts of personal data on the viewing and purchasing habits of millions of consumers, a key synergy driving these types of deals, even more than the actual media content.

This decision has immediately shifted the focus from concern about federal approvals to basic business decisions based on the pressure on distribution companies from competition from aggressive contenders like Amazon and Netflix. The decision is forcing Comcast to greater urgency in pursuing its erstwhile bidding war the Walt Disney Company to purchase the entertainment assets of 21st Century Fox.

Fox's international stakes in assets such as Hulu, Star, and Sky will help Comcast or Disney to scale their operations with international diversification, an essential element of a business plan designed to catch Netflix, which recently exceeded Comcast and Disney (temporarily) in market capitalization, and is now the world's largest entertainment and media company. Disney, watching its ESPN channel struggling from competition, may have to focus on less expensive acquisitions such as Twitter and Spotify.

It is apparent, however, that this judge believed after a long federal trial that media content as expensive as that owned by Time Warner (now to be purchased by AT&T for $85.4 billion) will not be blocked from the market, nor will prices be raised inordinately by distributors such as AT&T. This pressure erupts from the fierce competition between distributor ISPs (like AT&T) and online edge tech companies like Netflix, Apple, Hulu, and Amazon that are now spending billions of dollars a year on original programming while users stream such content on apps wherever and whenever they wish, on a variety of devices.

AT&T, a distributor of media and information content through its global telecommunications network, will now possess Time Warner's massive collection of content, including CNN, HBO, and video franchises like Harry, Potter along with rights to sports broadcasting rights for many major sports leagues. By acquiring Time Warner, AT&T will now manage distribution through its wireless, television, satellite, and broadband services of media content on its own terms. As AT&T chair Mr. Stephenson testified at the trial, "We want people engaged with their mobile devices all day watching movies and video."

The federal decision reflects a perception that the new Silicon Valley "edge" companies are bona fide competitors in the heart of the media marketplace and that regulation is not needed to curb them, as stated by the judge: "If there ever were an antitrust case where the parties had a dramatically different assessment of the current state of the relevant market and a fundamentally different vision of its future development, this is the one."

AT&T will certainly have the opportunity now to prioritize its new content library from Time Warner in preference to that of other internet service providers, which in spite of industry-wide corporate denials of such intent, due to the FCC's recent actions against net neutrality protections, consumers now face limited competitive online alternatives or legal remedies against increased prices. While only about 20% of consumers watch original subscription-video-on-demand (SVOD) services from the streaming edge companies, the remainder of such watched content comes from back catalogs held by companies like Time Warner.

As tech innovations like blockchain technology (including bitcoin currencies), artificial intelligence, driverless cars, genomic sequencing, energy storage (electric vehicles), and robotics now routinely disrupt and destroy entire industries, the media business is clearly ready to vote with billions of acquisition dollars to merge content creation and the distribution of that intellectual property.

The Times reports that $816 billion in M&A deals in the US were announced this year through May, up 71% a year ago as interest rates remain low. Other vertical mergers in progress that will surely have an eye on this decision include CVS and its $69 billion acquisition of Aetna, Comcast might purchase a wireless company, T-Mobile and Sprint, or for companies like Verizon and Dish that may wish to be content companies.

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