

The AT&T-Time Warner Merger

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AT&T recently announced plans to take over Time Warner, a move that would amount to nearly \$109 billion in total acquisition value. If approved, the merger would create a vertically integrated global giant with extensive holdings in the production, distribution, and exhibition of media content across a variety of communication platforms. While the merger still requires review from the United States Department of Justice (DoJ) and the Federal Trade Commission (FTC), it strikingly exemplifies the tendency toward convergence in the telecommunications and media industries, even if previous moments of corporate restructuring and divestment have given the impression that de-convergence is the prevailing trend. For this reason, the proposed merger offers a political-economic snapshot of the global media and telecommunications industries. In what follows, I background each of the companies, and then comment on the proposed the merger. Specifically, I discuss regulatory matters and the potential threat to civil liberties.

AT&T ranks #12 overall and is the #1 telecommunications company on the *Forbes* “Global 2000” list, which ranks the world’s largest publicly traded companies. In addition, AT&T holds a special place in the historical consciousness of American business. The company has its roots in the American Bell Telephone Company founded by Alexander Graham Bell in 1877 and later acquired by the American Telegraph and Telephone Company (AT&T) in 1899. Due to perceived security threats during World War I, the U.S. government consolidated all patents related to radio communications. This led to two government-sponsored monopolies: General Electric gained control of wireless communication, and AT&T took over wired communication. AT&T’s monopoly on telephony also extended into Canada through the Bell System, and the company used its position to raise rates and restrict the business opportunities of prospective competitors (Danielian, 1939). The Bell System was eventually broken up through an antitrust settlement in 1982. Under the settlement, AT&T agreed to divest its local exchange operating companies in exchange for a chance to enter the computer business (see *United States v. AT&T Co.*).

The breakup did not last long, however, as AT&T reacquired its previously divested assets in 2004. Today, AT&T has holdings in fixed line and mobile telephony, satellite and digital television, and broadband Internet access. Also, the company recently initiated a spate of acquisitions, including the purchase of the Mexican telecommunications firms Iusacell and Nextel Mexico in 2014. It subsequently combined these two companies into AT&T Mexico in 2015. The company also acquired the direct broadcast satellite service DirecTV in 2015. The proposed acquisition of Time Warner is aimed at expanding AT&T’s media holdings.

The target of the acquisition, Time Warner, ranks #156 overall and as the #3 broadcasting and cable company on the *Forbes* “Global 2000” list. The company has its roots in two separate companies: Time Inc., which began in 1922 as the publishing company for *Time* magazine, and Warner Bros., which also began in the early 20th century when it was one of five vertically integrated film studios that dominated Hollywood. The two companies combined in 1989 to produce the world’s then largest media company with holdings in music, magazine, book publishing and filmed entertainment. After subsequent acquisitions in the 1990s, particularly in cable television, Time Warner looked for a way to enter the emergent digital media business. In 2000, it announced a merger with America Online (AOL). It is now widely regarded as one of the most spectacular mega-merger failures in history. Within just three years of the merger, AOL-Time Warner reported a \$98 billion loss, its stock fell by 90% and its debt reached \$29 billion (Fitzgerald, 2012, 2017).

Today, Time Warner continues its efforts to recover from the failed merger. Having divested its properties in music, book publishing, and magazine publishing, Time Warner has focused its attention on maintaining a vast library of television and filmed entertainment through its Turner Broadcasting Systems, Home Box Office, and Warner Bros. Entertainment Inc. divisions. The company also holds stakes in certain international television networks, which it reports through its Television Network Assets division (see Fitzgerald, 2017). However, the drive to enter the digital domain has remained strong at the company, and the merger with AT&T reflects this interest.

If the deal is allowed to proceed, the newly formed AT&T-Time Warner would combine the content and production strengths of Time Warner with the distribution strength of AT&T. The new company would be vertically integrated in the production, distribution, and exhibition of content, a potential concern for the Department of Justice (DoJ) and Federal Trade Commission (FTC). One of the major regulatory concerns will be the company’s potential to prioritize its own content over its distribution network, while discriminating against competitors’ content. Currently, the Federal Communication Commission (FCC) prohibits such practices through its Open Internet Rules, specifically the “Bright Line Rules”. However, the fate of these rules is somewhat unpredictable after Donald Trump’s election victory, as the President-elect has chosen two net neutrality opponents to oversee the FCC transition to Republican control. Both of them previously worked for telecommunication companies (Brodin, 2016).

In addition, the newly formed company could raise rates for mobile telephony and DirecTV subscriptions, arguing that their service comes with access to premium content from Time Warner properties such as HBO, CNN, and DC Comics. Mega-mergers like this tend to increase prices, stifle innovation, and restrict product offerings, despite the optimistic forecasts provided by certain economists. Indeed, a recent investigative report from Jesse Eisinger and Justin Elliott (2016) at ProPublica exposes how economists at elite U.S. academic institutions are paid thousands of dollars to produce reports purporting to show why mega-mergers are likely to be beneficial to the economy. This suggests that the struggle to critically scrutinize this merger is of the utmost importance.

But this merger also has consequences for civil liberties, as AT&T has been accused of working closely with the National Security Agency (NSA) to monitor both domestic and international communications (see *Hepting v. AT&T*). In addition, recently leaked documents show that AT&T has been profiting from its surveillance of U.S. citizens by selling information about communications activity to law enforcement agencies through a secretive project called Project Hemisphere (Lipp, 2016). All of this suggests that the stakes of the proposed merger go beyond the proper functioning of competitive markets and may have broader consequences for democratic citizenship. For the reasons outlined here, the AT&T-Time Warner merger deserves increased scrutiny from regulatory

agencies, if not outright rejection. The mixed messages from President-elect Donald Trump raise doubts as to whether this deal will be allowed to go through. However, we have already seen outspoken opposition to the merger from public advocacy groups, grassroots activists, and certain politicians. Although these are hopeful signs, such voices are likely to be met with resistance from those who have a stake in seeing the merger approved. The trends toward convergence, consolidation, and concentration of power within large telecommunications and media firms is unlikely to cease any time soon, which only reinforces the need for critical voices and an active resistance to these tendencies.

Author Bio

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References

- Brodkin J (2016) Trump hires two net neutrality opponents to oversee FCC transition. *ArsTechnica*, 22 November. Available at: <http://arstechnica.com/tech-policy/2016/11/trump-hires-two-net-neutrality-opponents-to-oversee-fcc-transition/> (accessed 28 November 2016)
- Danielian NR (1939) *AT&T: The story of industrial conquest*. New York: The Vanguard Press.
- Eisinger J & Elliott J (2016) These professors make more than a thousand bucks an hour peddling mega-mergers. *ProPublica*, 16 November. Available at: <https://www.propublica.org/article/these-professors-make-more-than-thousand-bucks-hour-peddling-mega-mergers> (accessed 29 November)
- Fitzgerald S (2012) *Corporations and cultural industries: Time Warner, Bertelsmann, and News Corporation*. Lanham, MD: Lexington Books.
- Fitzgerald S (2017) Time Warner. In: Birkinbine BJ, Gómez R, and Wasko J (Eds) *Global Media Giants*. New York: Routledge, pp. 51-71.
- Hepting v. AT&T Corp.*, 439 F. Supp.2d 974 (N.D. Cal. 2006).
- Lipp K (2016) AT&T is spying on Americans for profit, new documents reveal. *The Daily Beast*, 24 October. Available at: <http://www.thedailybeast.com/articles/2016/10/25/at-t-is-spying-on-americans-for-profit.html> (accessed 28 November 2016)
- United States v. AT&T Co.*, 552 F. Supp. 131 (DDC 1982).