



A Vertical Merger That Benefits Consumers Without Removing Any Competitors from the Market

“The DoJ would face tough scrutiny if AT&T opts to take the case to court, the experts say. ‘For a Republican administration to bring something like this would be incredible,’ says an antitrust lawyer, who asked not to be identified. ‘The Obama folks, who would sue a ham sandwich — they wouldn’t take it.’”

[Financial Times, Nov. 9, 2017](#)

“There is no legal case here for the DOJ to make that either with or without the Turner networks, this transaction violates antitrust law. . . . It is a very strange move, and one that from a legal standpoint doesn’t make any sense.”

[Larry Downes, Georgetown Center for Business and Public Policy; Variety, Nov. 8, 2017](#)

The DoJ will have to convince a judge that the merger creates a firm with the ability and incentive to discriminate against rivals. Why this case requires deviation from past DoJ practices and precedent in which behavioural conditions were sufficient remedies for similar mergers would also have to be addressed.”

[Jennifer Rie, Bloomberg; Financial Times, Nov. 9, 2017](#)

“It is unclear what specific law is being violated or how consumers are being harmed by . . . vertical integration.”

[Rich Greenfield, BTIG Research; Variety, Nov. 8, 2017](#)

“In his recent interview, [Assistant Attorney General Makan Delrahim] said that the Justice Department did not need to intervene just because a company was big He also said the government should not startle business markets with an abrupt change in its approach to antitrust legal theory.”

[The New York Times, Nov. 9, 2017](#)

“Antitrust experts were hard-pressed to think of examples of blocked ‘vertical’ deals In such deals, a competitor isn’t eliminated, so it’s harder for the government to show how consumers would be harmed. Analysts believe AT&T would have a strong case in court. The government has the burden to show that the deal would reduce competition.”

[Associated Press, Nov. 9, 2017](#)

“This situation is almost entirely a vertical transaction, meaning that it involves companies that occupy different rungs on the distribution ladder — Time Warner provides content, with their various networks, and AT&T provides pipes into the homes by which that content is delivered. If there's no overlap, why is there a need to request any divestitures?”

[Kevin Arquit, Co-Head of Weil’s global Antitrust/Competition practice; Law 360, Nov. 9, 2017](#)

“The notion that conduct remedies, or behavioral remedies, have failed in this space or are not efficacious, is just completely false. And under a complaint-driven process there is no monitoring needed by the agency.”

[Hal Singer, GW Regulatory Studies Center; Law 360, Nov. 9, 2017](#)