



**WRITTEN STATEMENT FOR THE RECORD OF**

**FUTURE FILM COALITION**

**for the**

**OFFICE OF SENATOR ADAM SCHIFF**

**at a hearing titled**

**"Lights, Camera, Competition: Promoting American Film Production"**

**MARCH 20, 2026**

## I. INTRODUCTION

Senator Schiff, Congresswoman Friedman, and Members of Congress: thank you for convening this hearing on the state of American film production and the competitive dynamics shaping the media marketplace.

I am Jax Deluca, Executive Director of the Future Film Coalition, a national alliance of filmmakers, producers, distributors, exhibitors, film workers, and media arts organizations. Prior to this role, I spent almost a decade serving at the National Endowment for the Arts (NEA) as the Director of Film & Media Arts, where I led national initiatives, research, and sector-wide strategies to address high-level challenges facing the independent film ecosystem.

On behalf of the Future Film Coalition (FFC), we appreciate the opportunity to submit this statement for the record in connection with the March 20, 2026, spotlight hearing entitled “Lights, Camera, Competition: Promoting American Film Production.”

FFC is a national alliance representing filmmakers, producers, film workers, distributors, sales agents, film festivals, and independent movie theaters across the United States. Our members operate across the full film and media supply chain and are predominantly small businesses and independent companies embedded in local economies and communities nationwide.

Across the U.S. film and television industry, approximately 92 percent of the 122,000 businesses employ fewer than 10 people, and FFC’s members are among the small enterprises, filmmakers, festivals, exhibitors, and cultural workers represented within this broader ecosystem. Our members depend on competitive, open, and fair markets for the creation, distribution, and exhibition of film and media, and they increasingly face constraints arising from heightened market concentration, algorithmic gatekeeping, and the contraction of independent distribution pathways.

The film industry relies on competitive markets to thrive, and we strongly oppose any transaction that further consolidates control over film, television, and streaming markets. The proposed Paramount Skydance acquisition of Warner Bros. Discovery raises substantial concerns under established antitrust

principles, with clear and foreseeable harms to competition, labor markets, independent suppliers, cultural output, and consumer choice.

The evidence supports the following findings:

- **Increased concentration.** The proposed Warner Bros. Discovery–Paramount transaction would combine two of the largest entertainment companies in the world, further concentrating control over content libraries, television networks, streaming platforms, and the pipelines for content development, production, and distribution.
- **Reduced competition for independent film rights.** The independent film licensing market functions as a distinct buyer-side submarket under Bertelsmann. Reducing the number of competing buyers harms independent producers through lower licensing fees, weaker terms, and reduced output.
- **Vertical foreclosure of distribution pathways.** The combined entity would control production, distribution, and streaming platforms simultaneously. CEO David Ellison has confirmed those platforms will be merged into one.<sup>1</sup>
- **Labor-market effects.** The projected \$6 billion in synergies follows a documented pattern of post-merger layoffs and production cuts.<sup>2</sup>
- **Cumulative and irreversible harm.** Each prior merger removed competitive infrastructure that has not been restored. This transaction arrives when the ecosystem has no remaining resilience to absorb another reduction.

This statement focuses on competition in film licensing and distribution markets; bargaining conditions for producers and industry workers; structural changes in the film supply chain; the relationship between media consolidation and press freedom; and the specific mechanism by which this transaction would deepen harms that are already documented and measurable. Section 7 of the Clayton Act prohibits mergers whose effect "may be substantially to lessen competition, or to tend to create a monopoly."<sup>3</sup> That standard applies equally to buyer-side concentration, labor markets, and vertical integration.

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<sup>1</sup> [CNBC, Paramount CEO David Ellison investor call, March 2, 2026: combined streaming platform announcement \(~200M subscribers\).](#)

<sup>2</sup> [Alliance of Motion Picture and Television Producers, Class A structure: Teamsters DOJ submission, March 12, 2026.](#)

<sup>3</sup> [Clayton Act § 7, 15 U.S.C. § 18.](#)

While this acquisition will mean consumers will pay more for a streaming subscription or a night out at the movies, there is even more at stake. Independent filmmakers, distributors, film workers, and American culture will lose when the number of companies competing to license their work falls to a level that eliminates a competitive market.

Where a transaction of this scale threatens clear and foreseeable harm to competition, labor, and the public's access to a dynamic American film culture, policymakers should consider not only whether to block the merger, but also whether this warrants the creation of new, durable, public-interest infrastructure sufficient to mitigate those harms.<sup>4</sup>

## II. INDUSTRY STRUCTURE: A SMALL BUSINESS ECOSYSTEM

The motion picture industry is often described as a studio-driven sector, but it more accurately operates as a distributed network of small businesses, independent companies, and contingent labor. The Motion Picture Association reports that the industry supports approximately 2.3 million jobs.<sup>5</sup> These are not only jobs created by the major studios. They are the independent production companies, distributors, post-production facilities, local theaters, equipment vendors, publicists, and freelance crews that make up the actual working infrastructure of American film.

Freelance crews alone employ local professionals on film productions across every state, this includes gaffers, grips, hair and makeup artists, production assistants, actors, day players, and extras, and many other roles. The economic footprint extends far beyond the set itself: every production generates downstream spending on hotels, airlines, ground transportation, restaurants, catering, location fees, and local vendors supplying costumes, props, and set dressing, which inject resources directly into the communities where filming takes place.

"People think this only affects Hollywood, but it affects the whole chain of workers around every production and every screening. Freelancers, crew members, publicists, projectionists, venue staff, and small vendors all depend on a healthy film ecosystem."

Film Worker, BlockTheMerger.com

<sup>4</sup> [Jax Deluca, If We Don't Shape the Future of Civic Media, the WBD-PSKY Merger Will, Harvard Kennedy School Shorenstein Center \(2025\)](#)

<sup>5</sup> [Motion Picture Association, THEME Report 2024.](#)

A field briefing co-published by the National Endowment for the Arts and the Sundance Institute through the Independent Film and Media Arts Group (IMAG), a network of more than 800 individuals representing stakeholders from 47 states, also documents the structural vulnerabilities of this ecosystem. It describes how independent film faces a field-wide crisis driven by corporate consolidation, shifting distribution models, and the collapse of revenue streams that once sustained independent work.<sup>6</sup>

*Bottom line: When we talk about the film industry, most people picture the major studios. But the vast majority of the people and businesses that make films work are small companies and freelancers who depend entirely on having multiple large buyers competing to purchase and distribute their work. When those buyers consolidate, every link in the chain below them feels it.*

### III. HOW INDEPENDENT FILM DISTRIBUTION WORKS

#### The Distribution Window Structure

Independent films cannot distribute themselves at scale. Unlike studio productions that move through vertically integrated pipelines owned by the same company that finances them, independent films must secure external funders and buyers at every stage. A film made outside the studio system<sup>7</sup> has no guaranteed path to any audience. It must find a distribution partner willing to license its rights and carry it through the marketplace.

Films are typically distributed to viewers through a regular series of stages:

- **Theatrical release** — the film opens in cinemas, generating box office revenue and establishing the public profile and critical reputation that determines its value in all subsequent windows.
- **Premium Video-on-Demand (PVD)** — a high-priced rental window (\$6.99 to \$19.99), opening concurrently with or immediately following theatrical release. These are referred to as transactional windows.
- **Pay-1 Streaming License** — the first exclusive subscription streaming window, typically licensed to one platform for 12 to 36 months. The pay-one window (premium cable/first streaming license) has historically been a core revenue pillar for independent film.

<sup>6</sup> [National Endowment for the Arts / Sundance Institute. Independent Film and Media Arts Group \(IMAG\) Field Briefing. November 2022.](#)

<sup>7</sup> The modern studio system is composed of major studios and tech companies, including Amazon.com Inc. (Amazon MGM), Apple Inc., Comcast Corporation (NBCUniversal), Netflix Inc., Sony Group Corporation, Paramount Global, The Walt Disney Company, and Warners Brothers Discovery.

- **Downstream markets** — transactional VOD, advertising-supported streaming, cable and broadcast licensing, educational marketplaces, and international television generate long-tail revenue over subsequent years.

Reporting shows theatrical release increases the value of a film in other distribution channels (including PVID and Pay-1 Streaming),<sup>8</sup> even when a film under-performs at the box office.<sup>9</sup> Five major studios controlled 75% of the total theatrical marketplace in 2025. With limited avenues for theatrical distribution, many independent films go straight to Pay-1 streaming windows, which drastically reduces revenue opportunities from international and downstream markets. Permitting two of the major theatrical distributors to merge further decreases competition in the market and will result in fewer films being released in theaters.

With fewer independent films being released in theaters, producers disproportionately rely on the Pay-1 window to reach audiences and generate revenue. As distribution pathways narrow, funders struggle to recoup investments to finance future projects.

***Bottom line:** The Pay-1 window now carries the revenue weight once distributed across four or five distinct markets. In the early 2000s, a film without a streaming deal could still recover costs through DVD, cable, and international sales. Those fallback markets have largely collapsed. For most independent films today, the Pay-1 decision is effectively binary: a deal, or no viable pathway to recoup investments.*

#### **Four Ways the Distribution Window Structure is Impacted by Consolidation**

1. **Pay-One Window Consolidation:** The merger consolidates what were historically competing buyers in the pay-one window, reducing competition for film licensing and weakening negotiating leverage for independent distributors. Historically, independent distributors relied on competition between multiple premium buyers in the pay-one licensing window. Today, that competition has narrowed significantly. As one industry participant noted, companies that once competed directly for these rights are now consolidating, reducing the number of bidders for independent films. This shift further concentrates buyer power in a market where other revenue windows are already under strain. Here is why this matters:

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<sup>8</sup> ["The 26 Biggest Myths in the Entertainment Industry Debunked."](#) The Entertainment Strategy Guy. January 03, 2025.

<sup>9</sup> ["The Surprise Hit Film of 2024."](#) The Entertainment Strategy Guy. March 25, 2025.

- The pay-one window (premium cable / first streaming license) has historically been a core revenue pillar for independent film
  - Previously, multiple competing buyers (e.g., HBO vs. Showtime) drove pricing and demand
  - Consolidation collapses this competition into fewer buyers controlling a critical revenue stream
2. **“Shrinking Pie” Economics:** The industry is not only consolidating; its core revenue windows are shrinking at the same time. Historically, the windowing model—theatrical release, followed by transactional (TVOD/PVOD), and then pay-one licensing—created multiple, competitive opportunities for independent films to generate revenue and reach audiences. Today, that structure has eroded, with each window either contracting in scale or increasingly concentrated among fewer dominant players. In this environment, the loss of even a single buyer has a disproportionate impact, weakening competition and undermining the economic viability of independent film distribution. Here is why this matters:
- Simultaneous contraction: Theatrical, transactional, and pay-one markets are all shrinking or consolidating, reducing the number of viable revenue opportunities.
  - Fewer buyers, weaker leverage: Reduced competition at each stage limits negotiating power and worsens deal terms for independent creators and distributors.
  - Erosion of pathways: Independent film is not only losing buyers, but in some cases losing the functional viability of entire revenue windows, making it harder to recoup costs and compete.
3. **Transactional Market Gatekeeping:** The market for film rentals and purchases is increasingly shaped by platform gatekeeping, particularly as a small number of companies, most notably Amazon, control a majority share of this market.
- Participants report that these platforms have restructured their interfaces in ways that remove or obscure storefront access for independent titles, prioritize internally produced or licensed content, and in some cases require paid placement to achieve visibility.
  - As a result, independent films are harder to find even when they are available.
  - One respondent described the experience as “walking into a store where you have to go out the back door to find anything that isn’t the store’s own brand.”

4. **Loss of Independent Distribution Viability:** Independent distributors increasingly report a loss of viability within a marketplace that no longer operates on neutral terms. Rather than serving as primary drivers of audience engagement, independent films are often treated as supplementary content within platforms that prioritize their own internally produced or licensed titles. Here is why this matters:
- This dynamic is compounded by a significant marketing imbalance: major studios routinely spend tens of millions of dollars on prints and advertising (P&A), while independent distributors rely on far more limited, non-scalable promotional resources.
  - As a result, even high-quality independent films struggle to compete for visibility and audience attention.
  - The underlying issue is structural: streaming platforms and digital stores are not neutral marketplaces, but vertically integrated systems that privilege their own content and, in doing so, disadvantage independent competitors.

### **Output Deals: The Financial Infrastructure of Independent Distribution**

Independent distributors have historically relied on output deals. Output deals today are primarily contractual commitments from streaming platforms to license all qualifying films from a distributor's slate over a defined period. Output deals provide the financial predictability that makes independent acquisitions viable. For example, a distributor with an output deal in place can commit advance capital to acquire a film by an unknown or emerging filmmaker, knowing that a specific streaming window is guaranteed, regardless of theatrical performance. Further, the instability of Pay-1 windows also affects established award-winning filmmakers with a proven track record.

**Bottom line:** *An output deal functions like a standing purchase agreement. For example, a distributor may have an arrangement with a platform under which the platform agrees to license qualifying films for a set fee over a multi-year period. That guarantee allows distributors to bid on available films because a portion of their revenue is effectively pre-committed. Without that guarantee, each acquisition becomes a standalone risk for a distributor, which means distributors are forced to become significantly more risk-averse about what they acquire.*

The documented history of these deals is instructive. Magnolia Pictures held a multi-year output deal with Netflix from approximately 2014 to 2017, then moved to a comparable arrangement with Hulu beginning in 2017. Bleecker Street maintained a licensing relationship with Amazon beginning in 2015, a Hulu output deal from 2019, and then a Showtime output deal from February 2022. NEON has maintained an output deal with Hulu since the company's founding in 2017, and that arrangement remains active.<sup>10</sup> The issue today is not that every output deal has disappeared, as some remain in place, but that the number of platforms willing to enter into these agreements has declined. Beginning around 2022, major streaming platforms shifted from subscriber growth to profitability, and many moved away from broad output commitments. This has reduced the number of reliable buyers and weakened the economic foundation of independent film acquisition.

The proposed WBD–Paramount merger is directly relevant to this shift in two ways.

**First, it reduces the number of potential buyers.**

HBO Max (Warner Bros. Discovery) and Paramount+ currently operate as separate platforms that could independently license films or enter output-style arrangements. Following the February 27, 2026 merger announcement, Paramount CEO David Ellison stated on a March 2 investor call that Paramount+ and HBO Max will be combined into a single streaming offering, representing roughly 200 million global subscribers. In a market already defined by a shrinking pool of buyers, the loss of even one meaningful platform is significant.

**Second, it changes the incentives of the combined firm.**

A merged WBD–Paramount entity would control a substantially larger library of owned intellectual property and face increased pressure to monetize that content. As a result, the company has stronger economic incentives to prioritize internally produced or owned content over licensing films from independent distributors. Every dollar spent on an output deal is a dollar not spent on in-house content. As vertical integration deepens, the incentive to offer competitive licensing terms to independent distributors does not remain neutral—it diminishes.

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<sup>10</sup> [Variety / Deadline: Bleecker Street-Amazon output deal \(2015\), Bleecker-Hulu output deal \(2019\), Bleecker-Showtime output deal \(February 2022\); Hulu-Magnolia output deal \(2017, replacing Netflix deal\); NEON-Hulu output deal \(2017, ongoing\).](#)

The broader implication is that what began as an industry-wide pullback from output deals may become structurally reinforced. The shift away from predictable licensing arrangements would no longer reflect a cyclical adjustment in business strategy, but a more permanent change in market structure—one in which fewer buyers, operating under stronger vertical incentives, further limit access to distribution for independent films.

***Distribution windows provide valuable context for reviewing this current merger.***

*This is a key factor through which the merger's competitive harm reaches all the way back to the independent filmmaker and the broader film and media supply chain: If films cannot be sold, there is a ripple effect throughout the system: investors disappear, reducing productions and then affecting all of the small businesses involved in production, which simultaneously affects distribution, marketing, and theatrical exhibition.*

#### **IV. RELEVANT MARKET: INDEPENDENT FILM LICENSING**

Proper market definition is central to the analysis of this merger. In *United States v. Bertelsmann* (2022), the court defined a market for "anticipated top-selling books," rejecting broader definitions and focusing on competition among buyers of author rights.<sup>11</sup> The court emphasized that reducing the number of bidders could lead to "lower advances and less favorable terms" for authors.<sup>12</sup> Independent film licensing presents an identical structure: independent producers supply films, distributors and platforms compete to acquire them, and competition occurs among buyers for creative output.

Independent films are not a smaller version of studio blockbusters. They are financed outside major studios, cannot vertically integrate their own distribution infrastructure, and depend on a small number of external buyers competing to acquire or license them. If a film cannot secure a distribution partner, the filmmakers have no viable alternative to reach audiences at scale. That structural dependence is exactly what makes the buyer-side market definition legally and economically appropriate in the review of this merger.

#### **V. DECLINING BUYER COMPETITION: THE DOCUMENTED RECORD**

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<sup>11</sup> [United States v. Bertelsmann SE & Co. KGaA, 646 F. Supp. 3d 1, 26–27 \(D.D.C. 2022\)](#).

<sup>12</sup> [Id. at 84](#).

Over the past two decades, consolidation has reduced the number of studios actively competing to acquire independent films. As Brent Lang reports in *Variety*, “One downside of all the consolidation, which has seen Fox merge with Disney and Paramount poised to buy Warner Bros. Discovery, is that it has left indie studios selling to fewer TV and streaming platforms.”<sup>13</sup>

### The Acquisition Market Has Contracted

Sundance Film Festival acquisition data provides the most reliable longitudinal measure of buyer competition in independent film. Acquisitions fell by 50 percent between 2019 and 2025. Annual submissions to the festival continued to exceed 17,000 during that same period — a record high.<sup>14 15</sup> The pipeline of work seeking distribution grew. The number of films reaching audiences shrank. That inversion is the distribution bottleneck in numbers.

Year	Sundance Acquisitions	Submissions	Context
2019	38	~14,000	Peak streaming acquisition competition
2021	~28	~15,000	Output deal cancellations begin
2023	~22	~17,000	Output deals largely terminated
2025	19	~17,000+	Lowest acquisitions in a decade

[Distribution Advocates](#) also documents the full funnel: approximately 2 percent of submitted films are accepted into top-tier festivals, and of those, only about 11 percent secure worldwide sales agreements.<sup>16</sup> These data points confirm a reduction in effective buyer competition, not a decline in the quality or volume of work being produced.

### Historical Specialty Divisions Have Been Eliminated

The following former buyers each represented independent acquisition capacity. Their disappearance was the direct result of studio mergers and deliberate decisions to eliminate internal competition:

<sup>13</sup> [“The Movie Business Has Never Been Harder, So Why Are All These New Distribution Companies Launching?”](#) Brent Lang. *Variety*. March 12, 2026.

<sup>14</sup> [Sundance Institute. Festival Statistics 2019–2025: IndieWire acquisition reporting; Culturess. ‘Sundance 2025: Every Film That Got Picked Up.’](#)

<sup>15</sup> [Sundance Institute. https://www.sundance.org.](https://www.sundance.org)

<sup>16</sup> [Distribution Advocates, industry pipeline research \(on file with author\).](#)

- **Miramax:** Disney acquisition; ceased operating as a major independent buyer after 2010.
- **Fox Searchlight Pictures:** absorbed into Disney in the 2019 Fox acquisition; acquisition activity substantially reduced.
- **Fox 2000 Pictures:** closed entirely by Disney following the Fox merger (2020).
- **Fine Line Features:** closed by Warner Bros. after 14 years (2005).
- **Warner Independent Pictures:** closed by Warner Bros. (2008).
- **Paramount Classics / Paramount Vantage:** closed (2010).
- **Picturehouse:** closed by New Line/Warner (2008).
- **October Films, Artisan Entertainment, New Line Cinema:** each absorbed or closed following successive rounds of consolidation.

A streaming executive has commented: "While it may appear there are a lot of buyers, in truth the number of buyers has shrunk. It's a false front." This observation continues to re-appear as a structural pattern.

***Bottom line:** In the late 1990s and early 2000s, a filmmaker might have a dozen real options for viable bidders: a company that could write a check, release the film theatrically, and market it to audiences. Most no longer exist as independent buyers. They were absorbed by larger studios, which then closed them or redirected their activity toward franchise content.*

### **The 2026 Documentary Field Survey**

The Center for Media and Social Impact at American University, in collaboration with the International Documentary Association, surveyed 820 documentary professionals globally between March and May 2025 in an IRB-approved, anonymized study.<sup>17</sup> Its findings are among the most rigorous empirical data available on how consolidation and streaming retrenchment are affecting working professionals:

- 77 percent report fewer opportunities than before, up from 26 percent in 2020.
- 56 percent said their most recent film produced zero revenue, up from 42 percent in 2020.
- Only 17 percent now see streaming distribution as a positive future opportunity, down from 50 percent in 2020. This is a 66 percent collapse in professional confidence over five years.
- 74 percent identify getting funding or making a living in documentary as the greatest challenge facing the field.

<sup>17</sup> [Center for Media & Social Impact / American University. State of the Documentary Field 2026 \(IRB-approved: International Documentary Association collaboration\).](#)

These figures echo what was already being documented in 2022: a prior CMSI study found that only 20 percent of documentary filmmakers said their most recent film made enough revenue to make a profit, and 40 percent said their film made no revenue at all, with outcomes significantly worse for filmmakers from historically marginalized communities.<sup>18</sup> And yet the crisis on the supply side is not a reflection of absent demand. A 2024 study conducted by former Sundance Institute CEO Keri Putnam through Harvard Kennedy School's Shorenstein Center found that while an estimated 76.3 million Americans express interest in independent films, only 36.7 million actively engage with the medium, leaving an untapped audience of approximately 40 million people who want this work but cannot find it.<sup>19</sup>

## VI. MONOPSONY AND BUYER-SIDE HARM

The 2023 Merger Guidelines explicitly state: "A merger between competing buyers may harm sellers... including by lowering the prices paid to suppliers."<sup>20</sup> Independent filmmakers are suppliers of creative labor and intellectual property. A reduction in buyers leads to lower licensing fees, weaker contractual terms, and reduced output.

***Bottom line:*** Most antitrust cases focus on monopoly: one seller controlling a market and raising prices for consumers. Monopsony is the mirror image: one buyer (or a small group of buyers) using concentrated purchasing power to lower what they pay suppliers. When publishers become the only buyers for books, authors get lower advances. When studios become the only buyers for independent films, filmmakers get lower licensing fees, weaker contracts, and less creative control — or no deal at all.

In Bertelsmann, the court found that reducing the number of major publishers "would likely lead to lower advances paid to authors."<sup>21</sup> In *FTC v. Kroger* (2024), courts blocked the Kroger-Albertsons merger in part on labor-market monopsony grounds, confirming that antitrust analysis extends to harm to workers and suppliers.<sup>22</sup>

<sup>18</sup> [IMAG Field Briefing \(2022\): citing Center for Media & Social Impact, State of the Documentary Field 2020.](#)

<sup>19</sup> "U.S. Independent Film Audience and Landscape Study." Kerith Putnam. Harvard Shorenstein Center. November 1, 2024.

<sup>20</sup> [Id. § 12.](#)

<sup>21</sup> [Bertelsmann, 646 F. Supp. 3d at 80–84.](#)

<sup>22</sup> [FTC v. Kroger Co., No. 3:24-cv-00347 \(D. Or. 2024\).](#)

The compensation data confirms the harm is already occurring and measurable. WGA data shows median writer-producer pay declined 4 percent over the past decade, or 23 percent adjusted for inflation.<sup>23</sup> The share of writers earning only the minimum scale rose from 33 to 49 percent between 2013 and 2023. Total writer earnings in 2023 stood at \$1.29 billion — the lowest inflation-adjusted level since the 2007–08 writers strike. The Bertelsmann court found precisely this category of deal-term deterioration data decisive in its analysis. The same pattern, the same evidence type, and the same legal standard applies here.

There is also a labor-market dimension to this transaction that warrants careful consideration. The Alliance of Motion Picture and Television Producers (AMPTP) serves as the multi-employer bargaining unit that negotiates collective agreements with major film and television unions, including the Writers Guild of America, Screen Actors Guild-American Federation of Television and Radio Artists, Directors Guild of America, International Alliance of Theatrical Stage Employees, and the International Brotherhood of Teamsters.

Major studios and streaming platforms participate collectively in these negotiations, and consolidation among them can increase employer-side concentration in labor markets. A merger between Paramount and Warner Bros. Discovery would combine two of the largest participants in this bargaining structure, potentially increasing the negotiating leverage of the employer group relative to creative and production workers.

Unlike product-market effects, this type of labor-market concentration is not easily addressed through traditional remedies such as divestiture of assets or content libraries. For that reason, it raises distinct considerations under the 2023 Merger Guidelines, which recognize that mergers may lessen competition for labor and reduce workers’ bargaining power.

## **VII. VERTICAL INTEGRATION AND FORECLOSURE**

The proposed merger combines production studios, theatrical distribution networks, and streaming platforms (Max and Paramount+) under a single entity. The Merger Guidelines caution that vertical

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<sup>23</sup> [WGA West, TV Staffing Brief 2024; Annual Report on the Economic Status of the Screen and Television Writing Profession 2023.](#)

integration may enable firms to "foreclose rivals' access to inputs or customers" and "incentivize the merged firm to disadvantage competitors."<sup>24</sup>

**Bottom line:** *Vertical integration means one company controls multiple steps in the supply chain — making the film, distributing it, and operating the streaming platform where audiences watch it. When one entity controls all three, it has both the incentive and the ability to favor its own content over everyone else's — not because its content is necessarily better, but because using its own pipeline costs less and captures more revenue internally. Independent films get squeezed out not by a formal ban but by a thousand small allocation decisions that together constitute effective foreclosure.*

Ted Hope, producer of more than 70 independent films and former head of Amazon Studios' motion picture division, documented the structural consequences in his Substack post, "Have you been hurt by media consolidation? I have. And here's my story of how and why we all must BLOCK THE MERGER," re-published via IndieWire on March 11, 2026:<sup>25</sup>

"The modern streaming platforms are vertically integrated in ways the historical film business rarely was. The same companies now control financing, production, distribution, marketing, theatrical exhibition, and the platforms through which audiences discover films. This concentration of power leaves independent producers with little leverage and few alternative paths to reach audiences."  
— Ted Hope, IndieWire, March 11, 2026

Hope's account also documents a specific, currently ongoing censorship harm: more than 80 documentary and narrative films about democracy, including films about Taiwan's political status, could not secure U.S. distribution in 2023, with distributors citing sensitivities related to the China market. As the number of gatekeepers shrinks, the range of stories that reach the public shrinks with them. This is a documentation of affected works, not a hypothetical risk.

## **VIII. EFFECTS ON INDEPENDENT ART HOUSE CINEMAS AND EXHIBITORS**

Independent art house cinemas and exhibitors are a critical part of the U.S. film ecosystem, serving as small businesses, cultural institutions, and community anchors in cities and towns across all 50 states.

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<sup>24</sup>[Merger Guidelines § 5 \(2023\)](#).

<sup>25</sup>[Ted Hope, 'A Producer Extinction Event,' IndieWire, March 11, 2026.](#)

These theaters provide access to a wide range of films (including independent, documentary, international, and repertory titles) and function as essential points of connection between filmmakers and audiences.

[Art House Convergence](#), an industry stakeholder representing independent art house cinemas, is deeply concerned that a Warner Brothers acquisition by Paramount or any other corporation will have an immediate effect on independent theaters and moviegoers across the country. Ticket prices will increase to cover operating expenses, theaters will be forced to shutter, cinema workers will lose their jobs. Rural communities will lose access to both an American pastime and movies made outside an ever-shrinking studio system, deeply impacting the cultural significance of moviegoing as one of our country's most affordable and accessible art forms.

### **Market Concentration and Reduced Access to Films**

Historical precedent suggests that large-scale studio mergers can materially impact theatrical exhibition. Following Disney's 2019 acquisition of 21st Century Fox, theaters experienced reduced film production, decreased first-run content, and increased negotiating leverage concentrated within a single distributor.<sup>26</sup>

Industry stakeholders, such as Art House Convergence and its national and international partners, including [Cinema United](#), the [International Confederation of Art House Cinemas](#) (CICAE) which represents cinemas across Europe, and the [Network of Independent Canadian Exhibitors \(NICE\)](#) have raised concerns that increased consolidation among major studios and vertically integrated media companies will continue to pose significant risks for their economic viability, programming capacity, and long-term sustainability.<sup>27</sup>

A similar consolidation involving Warner Bros. Discovery would likely reduce the number of films available to independent cinemas (both new releases and catalog titles) while increasing reliance on vertically integrated distribution strategies that prioritize internal streaming platforms over theatrical access.

### **Bargaining Power, Theatrical Windows, and Economic Viability**

A Warner Brothers' sale and consolidation will also limit audiences' access to decades of past and forthcoming studio films, as it is more lucrative for corporations to place these films on their own streaming platforms rather than making them publicly available to cinemas. Fewer films will be produced

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<sup>26</sup> "The Disney-Fox Effect on Theaters," Consequence (2019).

<sup>27</sup> [Cinema United, "Cinema United Re-Affirms Concerns Around Consolidation" \(Feb. 27, 2026\)](#)

that are representative of our country's cultural diversity as studios prioritize and cater to mass appeal. Independently produced media is already facing a distribution crisis, and conglomeration only serves to accelerate this problem. Currently, independent cinemas offer a vast variety of film programming to local audiences, and the loss of this programming opens further debate around free speech, democracy, and authoritarian control over media.

Independent exhibitors depend on competitive negotiations with distributors to secure films under viable terms. Consolidation reduces the number of counterparties in these negotiations, concentrating leverage over key conditions such as theatrical window length, revenue splits, and booking requirements.<sup>28</sup>

A theatrical window supports downstream revenue via subsequent channels of distribution including VOD, physical media and other ancillary rights. Therefore, an inadequate theatrical window depresses the entire film ecosystem, all the businesses, the creators, the film workers, and most importantly, the audience, who loses out on the opportunity to see the film in the format it was made for: the big screen.<sup>29</sup>

Consolidation also concentrates power otherwise afforded to exhibitors when negotiating for better theatrical terms, including window length, ticket revenue splits, and other demands and requirements currently placed on theaters, mainly by the large studios. Fewer players means worse terms for exhibitors, raising their costs and reducing the experience for their customers.

At the same time, broader box office volatility and shifting studio strategies have increased financial pressure on theaters, particularly those operating outside of large chains.<sup>30</sup>

### **Repertory Programming and Access to Film History**

Repertory programming—the exhibition of older films from studio catalogs—is a core component of independent cinema operations and financial sustainability. These screenings provide audiences with access to decades of cinematic history while supporting theaters' educational and community programming. Demand for repertory programming remains strong and growing, particularly among younger audiences. Industry reporting indicates that younger moviegoers are attending theaters at higher rates and are increasingly drawn to curated and repertory experiences.<sup>31</sup>

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<sup>28</sup> [Pamela McClintock, "Box Office Recovery Faces Ongoing Challenges," The Hollywood Reporter \(2025\)](#)

<sup>29</sup> [Jim Hemphill, "Gen Z Went to the Movies Most Often in 2025," IndieWire \(2025\)](#)

<sup>30</sup> [Art House Convergence, 2025 National Audience Study \(2025\)](#)

<sup>31</sup> ["The Repertory Revival Is Saving Movie Theaters," The Ringer \(2024\); see also IndieWire, "How Film Revivals Are Luring Young Crowds and Saving Specialty Cinema" \(2024\)](#)

Exhibition data and reporting show that repertory programming has become a significant driver of attendance and revenue, with theaters expanding these offerings and seeing measurable growth in audience engagement. At the same time, repertory programming has become more essential due to reduced new film production following the COVID-19 pandemic and the 2023 labor strikes.<sup>32</sup>

Warner Bros. Discovery controls one of the largest film libraries in the world. Consolidation raises the risk that these catalogs could be increasingly prioritized for exclusive streaming use, limiting theatrical access and reducing independent cinemas' ability to program films and generate revenue.

### **Impact on Local Economies and Cultural Infrastructure**

Independent cinemas function as local economic drivers and cultural institutions. They are widely recognized as community anchors that support nearby businesses, generate employment, and provide accessible public spaces for cultural engagement.

Unlike production, which can shift geographically, theaters are fixed in place and embedded in their communities. When consolidation reduces access to films or worsens economic conditions for exhibitors, the effects extend beyond the theater itself, impacting local economies, small business ecosystems, and access to cultural programming.

Independent cinemas rely on a competitive and open marketplace for film distribution, and further consolidation among major studios and streaming platforms risks reducing film supply, restricting access to catalog titles, weakening exhibitor bargaining power, and undermining the economic sustainability of theaters. These effects extend beyond exhibition to local economies, cultural access, and the broader public interest in maintaining a diverse and accessible film landscape.

"What happens in a corporate setting is that it becomes about P&L and the bottom line, and that restricts creativity. With the Paramount decree being struck down, entities can now totally vertically integrate."

Independent Producer (NEA & Sundance Institute IMAG Field Briefing, 2022)

## **IX. EFFECTS ON INDEPENDENT PRODUCERS AND PRODUCTION WORKERS**

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<sup>32</sup> [Art House Convergence, 2025 National Audience Study \(2025\)](#)

Independent producers and production workers have experienced a significant contraction in the number of networks and platforms actively commissioning new work. Where creators once had a range of potential buyers—including outlets such as Showtime and CNN, alongside platforms like HBO, Netflix, Hulu, and Amazon—many of those commissioning entities have exited the market or sharply reduced their acquisition activity. The remaining platforms tend to concentrate their investments in a narrow set of commercially proven formats, limiting both the diversity of projects being developed and the range of companies able to participate. As the number of buyers has declined, the balance of negotiating power has shifted accordingly. Independent producers report that platforms increasingly set standardized, non-negotiable terms, contributing to downward pressure on compensation, tighter margins, and more constrained working conditions across the production sector.

At the same time, these platforms often retain significant control over editorial direction while structuring agreements in ways that shift financial and legal risk onto independent production companies. Producers describe arrangements in which networks dictate story format and creative parameters but require independent companies to assume liability for legal exposure, including potential claims arising from the content. This combination of concentrated commissioning power, standardized deal structures, and risk allocation has made it more difficult for independent companies to sustain operations over time. Several established production companies have exited the market in recent years, and workers report that with fewer commissioning outlets, access to opportunities has become increasingly limited. In such an environment, each remaining platform carries outsized importance, and the loss of even a single buyer can materially affect the viability of independent production businesses and careers.

“We used to pitch to Showtime and CNN, alongside HBO, Netflix, Hulu, and Amazon. Now several of those buyers are out of the game, and the few platforms that remain dictate terms to such a degree that there’s constant downward pressure on rates and working conditions that are pushing the vast majority of people across the production field out of work.”

— Independent Production Company Owner

"Media consolidation has led to four core changes to my industry that together have produced what now feels like a producer extinction event: the death of the mid-budget film, the collapse of independent distribution, the collapse of the international sales market, and the elimination of

backend economics. Without producers able to sustain a career, we can anticipate the collapse of the industry. Democracy requires small business owners to have a level playing field."

— Ted Hope, IndieWire, March 11, 2026

## **X. FREE SPEECH, NEWS MEDIA, AND EDITORIAL INDEPENDENCE**

In this merger, one entity would control CNN, CBS News, HBO, Warner Bros. Pictures, and Paramount Pictures simultaneously. The question of what gets made and what gets seen is no longer purely an economic question. It is a question about whether the editorial independence of American storytelling can survive in a media landscape this concentrated, and whether diverse voices and perspectives can exist in a marketplace this narrow.

### **The Merger-Specific Risk: Two Major Archives Becoming One**

Mergers of major media companies concentrate control not only over distribution pipelines, but over the archival footage that makes documentary filmmaking, journalism, and historical storytelling possible. While this dimension of vertical integration has received insufficient attention in merger analysis, its competitive and expressive consequences would present an additional layer of harm for independent film.

The CNN Collection holds over 4 million assets, including broadcast footage spanning more than 45 years of global news, wars, elections, and political events. The Paramount-controlled CBS archive adds a second, comparably significant layer: decades of CBS News coverage, CBS Television Network programming, and classic entertainment properties from one of American broadcasting's oldest and most historically significant libraries. Together, these collections would represent an unprecedented concentration of American broadcast history under a single ownership structure.

Neither archive operates as a passive repository. Both are actively controlled licensing systems in which access requires editorial disclosure, legal review, and approval before materials are released. That approval process gives rights holders discretion over how materials are licensed, including consideration of the context in which the footage will be used, setting pricing, and terms. Access can be denied without explanation. Pricing can be set without reference to any competitive benchmark. One person described being told they could not license previously available footage because the footage they requested "showed

American soldiers in a bad light while our country was at war.” For the archival producer, this is not an abstract concern about market structure. It is the daily operational reality of trying to tell stories that powerful institutions would prefer remained untold.

Right now, CNN (WBD) and Paramount each operate as separate potential sources of historical broadcast and entertainment footage. Post-merger, they become one. In a consolidated market, where fewer companies control these unique and non-replicable archives, there are often no substitutes, giving rights holders effective gatekeeping power over historical record. This means corporations have the power to control what history and what stories can be told when they hold rights to an archive. Pricing itself can also function as an additional form of exclusion: independent filmmakers often face prohibitively high rates, reported as high as tens of thousands of dollars per minute, while larger studios benefit from volume discounts or pre-negotiated deals.

The harm, seen through the lens of the archival producer and the independent storyteller, does not stop at vertical control over essential inputs or discriminatory pricing. It reaches into the infrastructure of public knowledge, determining which stories can be assembled from the historical record in the first place.

“With fewer competitors controlling more archival content, a Paramount-Warner Brothers merger could further concentrate pricing power and restrict access—exacerbating inequities in who can afford to tell history and increasing the likelihood that critical or less commercially viable perspectives are excluded.”

— Archival Producer

## **The Independent Film Sector and the Marketplace of Ideas**

The strength and diversity of independent media is crucial to maintaining a healthy democracy. Independent storytelling, rooted in communities, based on the lived experiences of today's Americans, and created outside commercial and ideological pressures, represents the most resilient part of the American storytelling ecosystem. When that ecosystem contracts, the range of stories available to audiences contracts with it.

Industry observers and filmmakers have documented a growing trend in which risk-averse economics and political sensitivity work against films that touch upon subjects perceived as commercially or institutionally dangerous.<sup>33 34 35</sup> Films about Taiwan's political status and its struggle for democratic survival, Amazon labor organizing, electoral accountability, and the Israeli-Palestinian conflict have each encountered the same structural barrier: critical acclaim, international distribution, and audience demand—but no American buyer willing to take the risk. This merger would further reduce the number of companies willing to distribute content about today's pressing issues, particularly content that might create friction with the political interests of the combined entity's ownership or financing partners.

The International Documentary Association, which represents the professional documentary community and has formally opposed this specific merger, stated directly that the proposed transaction would be "devastating to U.S. documentary filmmakers, the film industry, consumers, and free speech in the United States," finding that previous similar mergers have "stifled competition, inhibited free expression, limited the films available to audiences, and hurt film workers throughout the industry."<sup>36</sup>

The cases of *No Other Land*, *Union*, and *Holding Liat* illustrate how this dynamic operates in practice, and what American audiences lose when it does. The examples below are not outliers. They are the visible surface of a structural pattern: as the number of buyers shrinks, the range of stories those buyers are willing to acquire shrinks with it.

- ***No Other Land*** — winner of over 45 top documentary prizes and the Academy Award for Best Documentary Feature — could not find a U.S. distributor despite international theatrical distribution in countries around the world, with one prominent programmer noting that "in most years, a film with this much acclaim would have been snapped up for its awards potential alone." The filmmakers stated directly that distributors were afraid to engage with the subject matter, and even after winning the Oscar, major streamers refused to release the film. It was ultimately self-distributed into arthouse theaters, a distribution outcome that, in a functional market, should not be the result for an Academy Award winner.

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<sup>33</sup> ["No Other Distribution: How Film Industry Economics and Politics Are Suppressing Docs Sympathetic to Palestine and Critical of Israel," International Documentary Association, Jan. 15, 2025.](#)

<sup>34</sup> [POV Magazine, "The Best Documentaries of 2024: Ringing in a Tumultuous Year," Feb. 3, 2025.](#)

<sup>35</sup> [Variety, "Too Hot to Handle: Streamers Favor Celebrities and Crime Sprees to Complicated and Controversial Political Docs," Aug. 9, 2024.](#)

<sup>36</sup> [International Documentary Association, Statement Opposing a Merger Involving Warner Bros. Discovery, documentary.org, Nov. 2025.](#)

- ***Union*** — a Sundance prize winner and Academy Award shortlisted documentary following Amazon workers' landmark unionization campaign fared no better. Co-director Brett Story reported that Hulu and Netflix stated directly that they were not doing social issue documentary or political films.<sup>37</sup> Multiple distributors told the filmmakers privately they loved the film but could not acquire it because of their ongoing working relationship with Amazon Studios.<sup>38</sup> This named conflict of interest that illustrates precisely how vertical integration in adjacent markets suppresses independent distribution. In an interview, co-director Brett Story summarized "media consolidation has resulted in fewer buyers, buying less content and making more conservative choices."<sup>39</sup>
- ***Holding Liat*** — an observational documentary by American filmmakers Lance and Brandon Kramer, chronicling the days and weeks after two of their relatives were kidnapped from their kibbutz in Israel, representing a surprising diversity of emotional and political responses within three generations of one family. The filmmakers approached more than 30 U.S. streamers and distributors after winning the Best Documentary Award at the Berlinale. All passed, citing concerns about the corporate ramifications of supporting a film that touched the Israeli-Palestinian conflict with any degree of nuance or complexity. While the film was shortlisted for the 2026 Academy Awards, secured international distribution in nearly a dozen countries including a broadcast on BBC's *Storyville*, and was named one of the top films of the year by the *Guardian* and the *Washington Post*, it could not find a commercial distributor in its own country. In an opinion article about their experience, the filmmakers concluded that "there is not (yet) a distribution or streaming company in America that exists to commercially release a film like ours, and many others," expressing deep concern for "all of the opportunities missed, audiences overlooked, and stories that will go untold with the current trajectory of the corporate decision-making calculus for what gets platformed."<sup>40</sup>

## **The International Dimension and the American Cultural Voice**

The U.S. film and television sector is among America's most significant cultural exports, and independent film is the part of that sector most responsible for the diversity, specificity, and credibility of the American

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<sup>37</sup> [Brett Story, quoted in "We Are Not Doing Political Films': Why Award-Winning Documentaries Are Being Frozen Out," CBC News, Jan. 15, 2025.](#)

<sup>38</sup> [Hollywood Reporter, "Amazon Labor Union Documentary: Why It's Self-Distributing," Oct. 18, 2024.](#)

<sup>39</sup> [Brett Story, quoted in Inequality.org, "Symbolic and Contagious: Union Documentary Captures Amazon Labor Breakthrough," Jan. 2025.](#)

<sup>40</sup> [Lance Kramer and Brandon Kramer, "On Being the #2 Documentary in America in 2026," International Documentary Association, Feb. 5, 2026.](#)

storytelling voice globally. A more concentrated industry produces fewer diverse stories and a narrower cultural voice increasingly shaped by the franchise economics and risk-aversion of a small number of dominant firms rather than by the full range of American experience.

The European Union has already recognized this dynamic and responded to it legislatively, mandating 30 percent European content quotas on streaming platforms operating within EU member states specifically because of concerns that American media consolidation was crowding out local voices on their own platforms. The irony is direct: the consolidation of American media is generating regulatory responses abroad that constrain American content's reach internationally, while simultaneously narrowing the range of American stories produced domestically.

Independent film has historically been the corrective to this narrowing, where stories too complicated, too political, too local, or too honest for studio economics still find their way to screen. The filmmakers who defined American cinema's international reputation in the past three decades, such as **Paul Thomas Anderson, Ryan Coogler, Chloé Zhao, Barry Jenkins**, were each nurtured by an independent ecosystem that gave them room to develop work before the studio system had any reason to back them. This creative pipeline, supported by the hundreds of film and media arts organizations in communities across the U.S., is the mechanism by which American film renews itself creatively, and by which the country's greatest cultural export remains something more than intellectual property managed for quarterly returns.

"The indie sector is where the talent grows. For one of the largest American exports, why is there no investment in keeping it healthy?"

Independent Film Distributor (NEA & Sundance Institute IMAG Field Briefing, 2022)

## **XI. LABOR MARKET AND OUTPUT EFFECTS**

The industry is not in a state of cautious health being asked to absorb further consolidation. It is in a documented, measurable crisis. Congress should understand the conditions that already exist before evaluating what this merger would add.

### **Los Angeles Employment**

Bureau of Labor Statistics data shows Los Angeles County's motion picture workforce fell from approximately 142,000 workers in 2022 to roughly 100,000 by late 2024 — a loss of 42,000 jobs in 24

months.<sup>41</sup> The Otis College Creative Economy Report found overall entertainment employment remains 25 percent below its 2022 peak, with shooting days in L.A. County down 42 percent in 2024 compared to 2022.<sup>42</sup> FilmLA reported on-location production down 22 percent in Q1 2025 compared with the same period in 2024.<sup>43</sup> Luminate's 2025 Year-End Report shows the share of U.S.-produced projects filming domestically has shifted from 67 percent in 2020 to approximately 50 percent in 2025 — a production exodus that states have spent more than \$25 billion in tax incentives trying to prevent.<sup>44</sup>

### **Writers Guild Data**

WGA data shows 1,319 television writing jobs disappeared in the 2023–24 season.<sup>19</sup> WGA-covered episodic series declined 38 percent — from 362 shows to 223 — in a single season.<sup>19</sup> Median writer-producer pay has declined 23 percent in inflation-adjusted terms over the past decade. The share of writers earning only minimum scale rose from 33 to 49 percent since 2013. Total writer earnings in 2023 were \$1.29 billion — the lowest inflation-adjusted level since the 2007–08 strike.<sup>19</sup>

### **Additional Distress Indicators**

In 2024, the Art Directors Guild suspended its training program, stating that more than 75 percent of its 3,000 members were unemployed, many having not worked for 18 months or more. The Guild's public statement read: "We cannot in good conscience encourage you to pursue our profession."<sup>45</sup> The Entertainment Community Fund distributed more than \$5.6 million to nearly 3,000 entertainment workers in the first half of 2024 alone — approximately six times the pre-pandemic average.<sup>46</sup>

### **The \$6 Billion Synergy Projection**

The merging parties project approximately \$6 billion in synergies.<sup>47</sup> In this industry, the pattern is documented. The Paramount-Skydance transaction that immediately preceded this proposal produced 2,000 layoffs (approximately 10 percent of Paramount's workforce).<sup>48</sup> The Disney-Fox merger closed Fox 2000 and Blue Sky Studios. The WGA West's 'New Gatekeepers' report documented that Disney specifically used its post-merger position to "reduce film output, shut down competing studios, foreclose independent content from its distribution networks, expand control of the labor market, and force creators

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<sup>41</sup> [U.S. Bureau of Labor Statistics, QCEW, NAICS 512110 \(Motion Picture & Video Industries\), Los Angeles County, 2022–2024.](#)

<sup>42</sup> [Otis College of Art and Design, Report on the Creative Economy 2024.](#)

<sup>43</sup> [FilmLA, Production Activity Report, Q1 2025.](#)

<sup>44</sup> [Luminate, 2025 Year-End Film & TV Report.](#)

<sup>45</sup> [Art Directors Guild, IATSE Local 800, public statement on training program suspension \(2024\).](#)

<sup>46</sup> [Entertainment Community Fund \(formerly The Actors Fund\), 2024 Annual Report.](#)

<sup>47</sup> [Paramount/Warner investor disclosures and SEC filings \(2025–2026\); Paramount CEO David Ellison, investor call, March 2, 2026.](#)

<sup>48</sup> [Associated Press, 'Paramount Lays Off 2,000 Workers,' August 2024.](#)

to give up financial participation in future licensing revenue."<sup>49</sup> As cited in Congressional testimony by the Writers Guild of America West, “these mergers lead to lower wages, higher consumer prices, fewer or worse consumer choices, and less innovation.”

*Bottom line: When two large companies merge and announce they will save billions of dollars, those savings have to come from somewhere. In the film industry, they come from three places: people who lose their jobs, production budgets that get cut, and licensing deals that don't get made. 'Synergies' is the corporate term for all three happening simultaneously.*

## **XII. CUMULATIVE CONSOLIDATION**

This transaction must be evaluated in the context of cumulative consolidation. The film industry has undergone successive mergers over several decades: Disney–Fox, Amazon–MGM, AT&T–Time Warner, each of which reduced buyer competition in the independent film licensing market.<sup>50</sup>

The proposed WBD–Paramount merger arrives when three conditions that did not exist together in any prior consolidation event now coexist.

1. The buyer pool has already been reduced to its functional minimum. Removing one more major buyer is a significant market concern for those working in the film and television supply chain.
2. The economic architecture that previously cushioned buyer contraction has been dismantled by previous mergers, mergers in adjacent industries, and unregulated growth. DVD revenue is gone. Cable licensing has contracted. Output deals are cancelling. The fallback systems that absorbed prior shocks no longer exist.
3. The industry is entering this transaction from a position of documented crisis. The system has no remaining reserve of resilience to absorb another reduction in buyer competition.

Distribution infrastructure, once dismantled, does not reconstitute. Fine Line Features did not reopen after its 2005 closure. Paramount Vantage did not return. The harms from prior mergers are permanent and cumulative. Regulatory analysis that considers only the marginal harm from this specific transaction,

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<sup>49</sup> [WGA West. \*The New Gatekeepers\* \(2023\).](#)

<sup>50</sup> [“Broken Promises: Media Mega-Mergers and the Case for Antitrust Reform.” WGA West. December 2021.](#)

without accounting for the accumulated harm that preceded it, will systematically underestimate the severity of the competitive threat.

"The damage is cumulative. Each merger makes the next one easier, and the independent sector weaker."

Film Festival and Nonprofit Media Arts Leader

*Bottom line: Each prior merger appeared manageable in isolation. Cumulatively, the buyer pool for indie films has been cut by roughly 60 to 70 percent over two decades. This merger is not just another step. It is the step that reduces a diminished competitive market to something that barely functions as a market at all.*

### **Evidence Outlining Harms of Cumulative Consolidation**

The following submissions collected by Future Film Coalition through [BlockTheMerger.com](https://BlockTheMerger.com) provide consistent, cross-sector evidence of a market increasingly defined by reduced buyer competition, diminished negotiating leverage, and restricted pathways to audiences. Across filmmakers, producers, distributors, exhibitors, freelance workers, and audiences, the most frequently cited concerns are the same: fewer viable buyers for independent work; reduced access to distribution; declining compensation and fewer paid opportunities; erosion of long-term revenue and ownership rights; and increasing pressure against risk-taking or non-commercial storytelling.<sup>51</sup>

#### Reduced Buyer Competition and Market Access

The most consistent finding across submissions is that the number of companies willing to acquire and distribute independent work has fallen to a level that no longer functions as a competitive market. Distributors and sales agents describe the same contraction from the other side of the transaction:

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<sup>51</sup> [BlockTheMerger.com testimonial submissions \(collected 2025–2026: approximately 100 first-hand accounts\).](#)

“We are competing for fewer buyers every year. A shrinking number of platforms now controls the majority of licensing opportunities.”

— Independent Distributor

Multiple producers report that projects with completed financing, confirmed cast, and prior track records are simply not finding takers, not because the work is weaker, but because the field of buyers has narrowed. As one filmmaker described: “It's not that there's no demand for content. It's that there are fewer buyers, and they all operate the same way.” Another respondent stated directly: “Each merger makes the market smaller for independent creators.”

### Erosion of Ownership and Long-Term Economic Participation

A second major pattern concerns the terms on which distribution is available at all. Several respondents describe being required to surrender intellectual property, backend participation, or long-term ownership rights simply to access the distribution pipeline. This is not reported as an edge case. It is described as the new normal.

“Securing distribution required giving up a staggering amount of ownership. My lawyer called it 'the worst deal' he'd seen.”

— Producer

A former studio executive described deal structures in which backend participation was technically preserved but structurally inaccessible: “Backend would only kick in if we sold the show to a third party. Given that we had a multi-year license with the platform, this effectively eliminated any realistic chance of backend.” Another respondent described the broader shift: “The move toward full buyouts has made it much harder to build a sustainable career. Independent filmmakers are increasingly pressured to give up ownership just to get projects made.”

*Bottom line: In antitrust terms, this evidence reflects the deal-term deterioration that the Bertelsmann court found decisive in the Penguin Random House case: When the number of buyers falls, sellers accept terms they would not accept in a competitive market.*

## Distribution Barriers and Platform Foreclosure

Respondents consistently describe a second form of harm that occurs after acquisition: films that are nominally distributed but effectively invisible. Even where a distribution deal exists, the structure of vertically integrated platforms creates a secondary layer of foreclosure. One producer shared that a documentary with more than 500 in-person screenings, sold-out theatrical engagements in multiple cities, and thousands of on-demand viewers was still unable to secure sustained platform distribution proving that audience demand existed; the market access did not.

“I’ve had projects that once would have found a home just disappear into a market that no longer has room for them.”

— Independent Filmmaker

“When one company controls commissioning, distribution, marketing, and the platform itself, independent work has almost no leverage.”

— Documentary Producer

“Making the film is no longer the hardest part. Getting it seen is.”

— Filmmaker

## Labor, Workforce, and Local Economic Impact

The harms documented in these submissions extend well beyond filmmakers and distributors. They run through the entire supply chain. Freelancers and workers describe increasing precarity: “Work has become more sporadic, and rates haven't kept up.”

Several respondents report leaving the industry entirely: “People are leaving the field because they can't make a living anymore.”

Independent exhibitors describe upstream effects reaching local screens. One theater operator noted that audiences are now asking for films the theater cannot access. This is not a failure of programming ambition. It is a distribution market failure with direct local cultural consequences. These accounts are consistent with the IMAG Field Briefing's finding that the independent film ecosystem depends on a network of regional festivals, independent cinemas, public broadcasters, and small organizations, each acting as vital cultural outlets serving local communities who may have limited access otherwise, and function as the connective tissue between independent creators and the audiences they are trying to reach.<sup>33</sup>

“People think this only affects Hollywood, but it affects the whole chain of workers around every production and every screening — freelancers, crew members, publicists, projectionists, and small vendors.”

— Film Worker

“If you, as a production worker, lose access to work from just one of the remaining outlets because you didn't accept their low-ball rates, or perhaps challenged their editorial control of a commission, you are seriously in danger of having to leave the industry.”

— Production Worker

“For small theaters, fewer independent films reaching the market means fewer chances to serve our communities. Independent theaters depend on a diverse slate. Consolidation reduces that diversity.”

— Independent Exhibitor

## Cultural Diversity and the Public Interest in Storytelling

A final pattern across submissions concerns not what is being made, but what is reaching the public. Respondents describe a narrowing of what audiences can encounter. This is not because audiences lack interest, but because gatekeeping power has become too concentrated to permit the full range of stories that independent film has historically provided.

“The problem is not only that fewer films get made. It's that fewer kinds of films get made.”

— Director / Writer

“The public sees less of what's actually being made. There may be more content overall, but less room for discovery.”

— Audience Member / Festival Attendee

“The damage is cumulative. Each merger makes the next one easier, and the independent sector weaker.”

— Film Festival and Nonprofit Media Arts Leader

Taken together, these submissions from #BlockTheMerger describe a market in which creative labor faces fewer competing buyers, independent businesses encounter increasing barriers to reaching audiences, and the range of films available to the public is narrowing. These are precisely the conditions antitrust law is designed to prevent.

### **XIII. ADDITIONAL VOICES FROM THE FIELD**

The following accounts reflect the real-time experience of people working and watching across the American independent film ecosystem. Primarily drawn from submissions shared through BlockTheMerger.com, these experiences shared reflect consistent patterns reported across filmmakers, distributors, exhibitors, workers, festival leaders, and audiences.<sup>42</sup>

"There are fewer and fewer places to take a project. What used to be a negotiation now feels like a take-it-or-leave-it situation."

Independent Producer

"We used to be able to build a release strategy across a range of partners. Now each closure or merger narrows the path."

Independent Distributor

"When one company controls commissioning, distribution, marketing, and the platform itself, independent work has almost no leverage."

Documentary Producer

"We are competing for fewer buyers every year. A shrinking number of platforms now controls the majority of licensing opportunities. Films that once would have found distribution now struggle to secure deals."

Distributor / Sales Agent

"For small theaters, fewer independent films reaching the market means fewer chances to serve our communities. Independent theaters depend on a diverse slate. Consolidation reduces that diversity."

Independent Exhibitor

"I'm not only worried about jobs. I'm worried about whether independent artists can keep any ownership at all. Growing pressure to surrender intellectual property and future rights is a structural consequence of reduced competition among buyers."

Producer

"The public sees less of what's actually being made. There may be more content overall, but less room for discovery. Consolidation does not expand meaningful choice — it narrows cultural visibility."

Audience Member / Festival Attendee,

## **XIV. THE ASK: WHAT DO WE NEED**

The Future Film Coalition calls on Congress, the Department of Justice, and State Attorneys General to take the following actions.

### **1. Demand Rigorous Antitrust Scrutiny Free From Political Influence**

The HSR waiting period expiration does not constitute approval. The DOJ retains authority to challenge this merger. California AG Rob Bonta has opened a formal investigation. Congress should ensure review is conducted on the merits, with specific attention to the independent film licensing market as a distinct relevant market; labor-market concentration including AMPTP seat consolidation; vertical foreclosure risks; and the editorial independence implications for CNN and CBS News. What is unusual here is not that a merger has cleared an initial review threshold. What is unusual is the sequence: HSR compliance was certified before a definitive merger agreement was signed — shortening the window for challenge in ways antitrust lawyers have described as 'remarkably creative.' The question this body should ask is: what scrutiny has this deal actually received, and from whom?

### **2. Consent Decrees Are Not an Adequate Safeguard**

Consent decrees imposed as conditions on previous media mergers have repeatedly failed to serve as meaningful guardrails. They have proven difficult to enforce, resource-intensive to monitor, and ineffective at preventing harm to competition, workers, and independent businesses. Rather than stopping anticompetitive outcomes, these agreements have too often functioned as mechanisms that allow consolidation to proceed while shifting the burden of oversight onto an already under-resourced regulatory system. The AT&T-Time Warner consent decree was widely acknowledged as unenforceable in practice. The harms outlined in this testimony are structural in nature, and they cannot be adequately addressed through behavioral commitments or post hoc enforcement mechanisms.

### **3. Creation of a New, Durable Public-Interest Infrastructure**

The creation of a permanent, independently governed public-interest endowment for American independent cinema is essential to mitigate the existing harms to competition, labor, local production ecosystems, and content diversity. This entity should support independent film development, production, distribution, exhibition, and preservation outside the vertically integrated studio-streaming system, with public accountability and governance insulated from both corporate and political interference.

To be effective, this infrastructure must operate with public accountability and governance insulated from both corporate influence and political interference. It should be designed to complement antitrust enforcement by addressing persistent gaps in market access, financing, and distribution that enforcement alone cannot resolve.

#### **4. Hear From Independent Filmmakers, Workers, and Exhibitors**

Congress should actively solicit advice and input from independent filmmakers, producers, distributors, exhibitors, and film workers with on-the-ground perspectives of navigating the workforce and marketplace. Congress should also insist that antitrust enforcers seek their input as impacted parties from this transaction. The IMAG network's recommendation in its 2022 Field Briefing remains relevant today: 'Invite the independent film sector to the table.'<sup>33</sup> In regards to gauging the direct impacts of proposals regarding antitrust laws and merger reviews, members of the independent film and media ecosystem have valuable first-hand experience in the commercial marketplace that can inform such discussions.

#### **5. Support Legislation Strengthening Independent Film Infrastructure**

Senator Schiff's planned legislation on film incentives addresses the production exodus. The Future Film Coalition also supports: federal minimum standards for independent film acquisition activity by platforms operating under federal regulatory frameworks; transparency requirements for streaming platform content acquisition data; state-level film commission infrastructure for ongoing market monitoring; and application of the EU's streaming content quota model as a benchmark for exploring similar protections for independent American voices on domestic platforms.

## **XV. CONCLUSION**

The proposed Warner Bros. Discovery–Paramount transaction would combine two of the largest entertainment companies in the world, further concentrating control over content libraries, television networks, streaming platforms, and the pipelines for content development, production, and distribution.

The Future Film Coalition, alongside our many allied organizations that also represent thousands of independent constituents, such as Art House Convergence, International Documentary Association, and the Archival Producers Alliance, looks forward to working with members of Congress, State Attorneys General Offices, the Department of Justice, and other regulators to provide more details about the state of

the American film and television industry as they review the details of the proposed Paramount–Warner Bros. Discovery merger.

Thank you for the opportunity to submit this statement for the record.

Respectfully submitted,

Jax Deluca

Executive Director, Future Film Coalition

Former Film and Media Arts Director, National Endowment for the Arts

## FOOTNOTES

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1. [Clayton Act § 7, 15 U.S.C. § 18.](#)
2. [Motion Picture Association, THEME Report 2024.](#)
3. [Weyerhaeuser Co. v. Ross-Simmons Hardwood Lumber Co., 549 U.S. 312, 320–21 \(2007\).](#)
4. [United States v. Bertelsmann SE & Co. KGaA, 646 F. Supp. 3d 1, 26–27 \(D.D.C. 2022\).](#)
5. [Id. at 84.](#)
6. [Sundance Institute, Festival Statistics 2019–2025; IndieWire acquisition reporting; Culturess, 'Sundance 2025: Every Film That Got Picked Up.'](#)
7. [Sundance Institute, <https://www.sundance.org>.](#)
8. [Distribution Advocates, industry pipeline research \(on file with author\).](#)
9. [U.S. Dep't of Justice & Fed. Trade Comm'n, Merger Guidelines § 1 \(2023\).](#)
10. [Id. § 12.](#)
11. [Bertelsmann, 646 F. Supp. 3d at 80–84.](#)
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