

Directors Guild of America, Inc.



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Statement of the Directors Guild of America

Before the United States Senate Committee on the Judiciary
Subcommittee on Antitrust, Competition Policy, and Consumer Rights

Hearing on: “Examining the Competitive Impact of the Proposed Netflix-
Warner Brothers Transaction”

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The Directors Guild of America (DGA) represents more than 19,500 directors and members of the directorial team who work on feature films, television programs, commercials, documentaries, news, sports and other motion picture productions. The DGA’s mission is to protect its members’ creative and economic rights.

On behalf of its members, the DGA negotiates industry-wide agreements governing the minimum compensation, benefits, working conditions, and duties of its members. Through its negotiations, the DGA has achieved world-class pension and health plans, residuals provisions which reflect the contribution of directors to the final work and enable members to financially benefit from the reuse of that work, and the development of flexible, low-budget agreements that allow even the lowest-budgeted film and television projects to be made with DGA protections and benefits. The DGA provides its members with an infrastructure and safety net that enables them to flourish, as well as a broad array of educational and training programs.

The DGA is in the midst of evaluating the proposed sale of Warner Bros. Discovery (WBD) to Netflix or Paramount Skydance. Both proposed transactions raise significant issues that impact stakeholders across the media sector, including our members. The DGA has met with both Netflix and Paramount on the acquisition, and we intend to continue to meet with them to learn more about the proposed transactions. Our goal is ensure a vibrant marketplace for the production, distribution, and exhibition of film and television programming. While we are conducting our due diligence, we are not taking a formal position on the merger but want to share our concerns with you.

In analyzing the merger, it is important to assess the broader context of this sale. We stand to lose a major studio amid rampant media consolidation, which would come on top of a significant worldwide reduction in production that has already resulted in a tremendous loss of jobs for our members and other industry workers. We are also confronted with a proliferation of foreign tax incentives to lure American film production to shoot abroad at the expense of American jobs, the rapid advance of artificial intelligence, and a diminished market for the independent and original projects that train the next generation of filmmakers. As we have said previously, a vibrant and competitive industry that fosters creativity and fuels robust competition for talent serves the interests of consumers and directors alike. Competition breeds innovation, opportunity, and choice. Competition checks against price distortions, market abuses, and gatekeeping.

We respectfully request that members of the Subcommittee, as well as antitrust regulators, carefully review the magnitude of the impact that absorbing WBD into another media company will have on financing, production, licensing, and exhibition price points and industry practices within the entire ecosystem.

As the DGA continues its due diligence on the transaction, we would draw attention to several issues that members of the Subcommittee would do well to raise with prospective buyers and antitrust regulators:

1. How will the sale affect audiences: what stories consumers get to see, where they can watch them, and at what price and over what timeframe they will be available?
2. How might merger conditions protect consumers, American workers, and the American communities that depend on film and television production if the buyer maintains and operates WBD's divisions independently following the acquisition?
3. How might merger conditions protect consumers, American workers, and the American communities that depend on film and television production if the buyer must continue to commission, license, distribute, and market films and television from third-party producers at current levels?
4. How might merger conditions protect consumers, American workers, and the American communities that depend on film and television production if WBD's divisions continue to produce film and television for third-parties after the sale at current levels?
5. How might merger conditions protect the communal experience of watching movies in theaters and the moviegoing experience as a vital community hub and means of strengthening neighborhood connections if the buyer must commit to a significant theatrical exhibition window?
6. How might the marketplace benefit if the buyer must develop, as other media companies currently maintain, the capacity to negotiate and price internal licenses at fair market values as if negotiations were happening at arms-length between competitors?

7. If WBD's news and sports divisions remain part of the combined company, how should collective bargaining rights be protected in the new entity?
8. What conditions might mitigate the likelihood of the buyer looking to offshore production to reduce costs, especially to relieve debt?
9. How will the sale affect the pipeline for workforce training programs and small- and mid-size productions that train the next generation of filmmakers?

As members of the Subcommittee and regulators review the proposed transactions, we suggest you consider these issues.

We thank you for your consideration and your continued support for the economic and creative rights of our members and other industry workers.

Deadline