Comcast – TWC: Here's the Deal

D.C. Starts Drilling Down On Proposed Merger

4/14/2014 8:00 AM Eastern

By: John Eggerton

TakeAway

D.C.'s review of the $69 billion proposed Comcast-Time Warner Cable merger has begun, and skeptical lawmakers appear poised for a fine-tooth vetting.

WASHINGTON — Comcast's proposed deal to acquire Time Warner Cable has started its run through the regulatory and legislative gauntlet.

And though Congress does not get to vote on the deal, the Federal Communications Commission listens when its members speak, and some legislators have been loudly voicing their concerns about the meld. (For more on the deal's supporters and opponents, see Cover Story.)

Comcast officially filed its deal proposal with the FCC last week (April 8) — it had been filed with the Justice Department the week before — and faced a tough Senate Judiciary Committee panel one day later at the first Hill hearing on the proposed, roughly $69 billion deal.

If the tenor and range of questions were any indication, the deal is going to get a fine-tooth-comb review on the Hill, something Comcast executive vice president David Cohen has indicated he expected but which differs markedly in tone from the no harm, no foul pitch the MSO has been making in Washington.

Sen. Patrick Leahy (D-Vt.), the committee chairman, suggested the combination of the Nos. 1 and 2 cable operators raised issues about market power and network neutrality, a notion seconded by Sen. Amy Klobuchar (DMinn.), who presided over much of the hearing, and Rep. Mike Lee (R-Utah).

Throughout the marathon three-hour hearing, both Democrats and Republicans raised issues about the deal's effects on programming availability, consumer prices and access to broadband.

Leahy made clear his view that the deal posed potential consumer harms in both the video and broadband businesses.

"In 1996, I voted against the Telecommunications Act in part because of concerns I had about the lack of competition in the cable TV market," he said. "Along with many consumers, I continue to be concerned. Similar questions are now being raised about the broadband industry, where consumers feel like they face large bills and inadequate choices."

He said consumers want to know why their cable bills keep going up, why they don't have more choice of providers and why the merger is good for them. Cable prices got a working over, but Comcast's Cohen pointed out that prices are driven by programming costs, and that to the degree that the combination of Comcast and TWC did result in any leverage on those prices, or equipment prices, it would benefit consumers. He added, though, that the increase from 22 million subscribers to 30 million would only marginally increase that clout.

If the deal goes through, it will almost certainly be loaded with conditions. In fact, in its public-interest statement Comcast outlined the various conditions on nondiscriminatory access to online and traditional programming in its deal for content giant NBC Universal that would be extended to the TWC systems, as well as other conditions that would transfer.

Lee raised the issue of whether a combined Comcast/ TWC could limit access to conservative voices on their outlets. Some conservative groups argue that Comcast executives are too cozy with the Obama Administration, combined with what they see as a liberal bias on some NBCU programming.

Cohen said that issue of undue market power been one of the most heavily litigated issues around and that the FCC had concluded that having less than 30% of subs, as the combined company would have, did not represent a threat to access to content.

Comcast's Cohen asserted there were no anti-competitive problems with the deal, as there is no geographic overlap between the two companies' systems. But numerous legislators — mostly, though not solely, Democrats — suggested the size of the combined company in video as well as in broadband access represented potential incentive and ability to discriminate against e video competition, or to have too much power over programming prices, access to must-have NBCU content, or equipment prices. (Comcast is the No. 1 U.S. ISP; Time Warner Cable is No. 3.)

Sen. Al Franken (D-Minn.) hammered the deal, saying it would lead to higher prices and less choice for his constituents. While Comcast had employed 100 lobbyists to push the deal through, he said, he had heard from 100,000 constituents who did not like the deal, and said their voices should be heard, too.

Cohen could not promise the deal would lower consumer prices, but said nothing in the deal would raise them, either.

Cohen talked up the benefits, faster speeds, more video on demand, a more secure network, and not one fewer choice of cable operator or broadband provider in any market. But Public Knowledge president Gene Kimmelman saw the deal very differently.

Kimmelman suggested the combined companies would be an octupus-like creature with its arms around nearly 50% of high speed Internet access subs — not including digital subscriber line — more than 30% of MVPD subs, and almost 60% of cable subscribers.

"The proposed transaction is inconsistent with antitrust policy, the goals of the Communications Act, and the broader public interest. Therefore, it should not be approved," he said.

The House Judiciary Committee could be next in line for Comcast and stakeholders. It is expected to hold an oversight hearing on the deal in early May.

- See more at: http://www.multichannel.com/news/fcc/comcast-twc-here-s-deal/373818#sthash.D2TNhOfj.dpuf

Multichannel News – April 14, 2014