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A Preliminary Assessment of the Relative Antitrust Risk of a Comcast vs Disney Purchase of 21st Century Fox Assets
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Summary

As has been rumored in the press for a few weeks, Comcast announced today that it is considering a renewed bid for a large chunk of Twenty-First Century Fox's (Fox) assets. In December 2017, Fox's board rejected a bid from Comcast that was some 16% higher than the one it ultimately accepted from Disney.

The board's decision was based largely on its assessment that a merger with Comcast created unacceptable antitrust risk, where a merger with Disney did not.

In a brief analysis of the proposed deal, ICLE executive director and antitrust expert, Geoffrey Manne, posits that there is no basis for ascribing a greater antitrust risk to Comcast's purchase of Fox's assets than to Disney's.

Among other things, Manne discusses why the DOJ's AT&T/Time Warner merger challenge doesn't increase the risk that the DOJ would challenge a Comcast/Fox deal. His analysis also touches on:

- Why a vertical Comcast merger may be less problematic than the horizontal Disney one;
- Why the addition of Fox's regional sports programming may create bigger problems for Disney than for Comcast;
- Why the purchase of Fox's filmed entertainment assets cuts against Disney more than Comcast; and
- Why a Comcast controlling interest in Hulu is unlikely to concern antitrust enforcers.

In sum, Manne finds that while a Comcast/Fox deal may pose *some* antitrust enforcement risk, it certainly doesn't entail sufficient risk to deem the deal dead on arrival — and it seems to represent *less* regulatory risk than a Disney/Fox tie-up.

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