A merged AT&T-Time Warner may not do consumers much good

October 24 2016, by Tali Arbel

This May 14, 2014 file photo shows an AT&T logo on a store in Dedham, Mass. On Saturday, Oct. 22, 2016, several reports citing unnamed sources said the giant phone company is in advanced talks to buy Time Warner, owner of the Warner Bros. movie studio as well as HBO and CNN. AT&T is said to be offering $80 billion or more, a massive deal that would shake up the media landscape. (AP Photo/Steven Senne, File)

AT&T and Time Warner are playing up how their $85.4 billion merger will lead to innovative new experiences for customers. But analysts, public-interest groups and some politicians are far from convinced.

Republican presidential candidate Donald Trump said it should be killed. Tim Kaine, the Democratic vice presidential nominee, said less concentration in media "is generally helpful." And the Republican chairman and Democratic ranking member of the Senate's antitrust subcommittee said that the deal would "potentially raise significant antitrust issues."

The potential harm to consumers from this deal could be subtle—far more so than if AT&T were simply acquiring a direct competitor like a big wireless or home broadband company. Time Warner makes TV shows and movies; AT&T gets that video to customers' computers, phones and TVs. But the concern is that anything AT&T might do to make its broadband service stand out by tying it to Time Warner's programs and films could hurt consumers overall.

WALLING OFF TIME WARNER

The company certainly wants to do that. "With great content we believe you can build a truly differentiated service," said AT&T CEO Randall Stephenson. "In particular, mobile."

Here's how that would work. Because of Time Warner's world-famous shows and movies—"Game of Thrones," the "Harry Potter" films, professional basketball—and AT&T's ability to gather information about its tens of millions of customers, AT&T thinks it could do a better job tailoring ads and video to user preferences. It could then create more attractive subscription packages suited for phones, where people are increasingly watching video.

But many consumers already consider ads that know everything about them creepy or invasive, and digital-rights groups complain that any preferential deal AT&T could offer with, say, HBO would hurt competition.

In this Tuesday, May 26, 2015 file photo, pedestrians walk by an entrance to the Time Warner Center in New York. On Saturday, Oct. 22, 2016, several reports citing unnamed sources said AT&T is in advanced talks to buy Time Warner, owner of the Warner Bros. movie studio as well as HBO and CNN. The giant phone company is said to be offering $80 billion or more, a massive deal that would shake up the media landscape. (AP Photo/Mary Altaffer)

Say AT&T reserved HBO for its customers only. That would cut HBO's reach and hurt its value.

"This creates massive strategic tensions that are almost impossible to resolve," wrote Jackdaw Research's Jan Dawson in a note. AT&T can either disadvantage Time Warner by restricting who can watch its stuff or limit benefits for its own customers so much that they barely rate attention, he suggested.

FREE DATA FOR TIME WARNER

There's another way AT&T could favor its own media offerings. The company currently lets many of its wireless customers stream from the DirecTV app on their phones without counting it against their data caps, a practice known as "zero rating." AT&T has suggested it may also zero-rate its upcoming live-streaming DirecTV Now service, which doesn't require customers to install a dish on their homes.

If AT&T did that with, say, HBO shows and TNT's basketball games, it could upset other video providers, who could reasonably worry that customers might shun their streaming services to avoid exceeding their monthly data limit and possibly suffering slower data speeds as a result.

The companies also say that relying more on targeted ads could help lower the cost of making appealing shows and films. Even if that's the case, the savings might not get passed on to consumers.

Rich Greenfield, a BTIG analyst, noted there's no evidence that Comcast's 2011 acquisition of NBC led to lower prices. In fact, prices have been increasing broadly, although Greenfield said there's no way to know whether the deal contributed to that trend.

"There may not be dramatic harm, but it's certainly hard to find clear benefit," Greenfield said.