UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Writers Guild of America, West, Inc., and Writers Guild of America East, Inc.,

Plaintiffs,

vs.

Paramount Skydance Corporation, and Warner Bros. Discovery, Inc.,

Defendants.

DECLARATION OF ERIC EMCH, PHD

July 21, 2026

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I. Introduction

I.A. Qualifications and experience

(1) I am a Partner at Bates White Economic Consulting, where I have worked since 2011 assessing economic issues related to competition and antitrust in litigation, regulatory, and policy settings. I have more than two decades of experience in the economic analysis of competition policy issues, including the competitive effects of horizontal and vertical mergers, single-firm conduct, market definition and market power, and collusion. A current copy of my curriculum vitae is attached hereto as Appendix A.

(2) I joined Bates White from the Antitrust Division of the US Department of Justice ("DOJ"). I spent a decade working in the Division's Economic Analysis Group, serving as Staff Economist and Assistant Chief of the Competition Policy Section. As Assistant Section Chief, I led teams of economists in theoretical and empirical analyses of merger, monopolization, and collusion cases. As a Staff Economist, I conducted theoretical and empirical analyses in support of antitrust investigations and litigation in a wide variety of industries.

(3) From 2007 to 2008, while on leave from the DOJ, I served as a Senior Economist at the Paris-based Organisation for Economic Co-operation and Development ("OECD"). In that role, I led the OECD's Regional Competition Center in Seoul, Korea, where I designed, organized, and conducted competition policy training workshops for staffers of national competition authorities across Asia in subjects such as cartels, monopolization, and merger enforcement, work that I continued after joining Bates White.

(4) I have published in journals such as the *Journal of Industrial Economics*, *Review of Industrial Organization*, *Review of Network Economics*, and *Antitrust Law Journal* on a number of antitrust and competition policy related topics, including the competitive effects of mergers, market definition, and market power. I have taught industrial organization and econometrics at Georgetown University, Johns Hopkins University, and while a graduate student, at the University of California at Berkeley.

(5) Bates White Economic Consulting is compensated at a rate of $1,500 per hour for my work in this matter. Neither my compensation nor Bates White Economic Consulting's compensation depends on the outcome of this matter.

I.B. Scope of charge and materials considered

(6) I have been retained by counsel for Plaintiffs the Writers Guild of America, West, Inc. ("WGAW") and the Writers Guild of America East, Inc. ("WGAE," and together with the WGAW, the "WGA") to provide a preliminary economic assessment of the impacts of the proposed merger of Paramount Skydance Corporation ("Paramount") and Warner Bros. Discovery, Inc. ("WBD") on Writers Guild of America ("WGA") writers. In particular, I focus on defining an appropriate relevant antitrust market within which to evaluate the effects of the merger, calculating shares in that market, and evaluating ways in which the merger may harm sellers in the market. My focus in this report on the market for writing services on WGA-covered anticipated top-grossing films in the United States does not imply an absence of effects in other markets, or in other geographies.

(7) The opinions set forth in this declaration are preliminary and based on my professional training and experience, as well as my review of the information currently available to me. This includes data produced by the WGA, publicly available documents and data, fact declarations accompanying Plaintiffs' motion for a preliminary injunction, and the WGA's complaint. At this time, my opinions are not based on discovery from Paramount, WBD, or any other party. I reserve the right to update, expand, or refine my analysis as more data and other information becomes available.

I.C. Summary of opinions

(8) My primary conclusions can be summarized as follows:

1. <u>The merger combines similarly situated, large, horizontal competitors. Such mergers often raise antitrust concerns</u>.
   - The merging parties are two of five major film studios focused on theatrical release of big-budget movies.
   - Among the many ways in which the merging firms compete is for the services of writers of these movies.
2. <u>An appropriate relevant antitrust market for assessing the competitive impact of the merger is the market for writing services for WGA-covered anticipated top-grossing films in the United States.</u>
   - The "hypothetical monopolist test" – or in this case the "hypothetical monopsonist test" – provides a well-accepted framework for assessing market definition either for a market of buyers or a market of sellers. In this case, the framework asks whether a hypothetical monopsonist of the candidate market would be able to profitably lower prices paid to writers by a small but significant and non-transitory amount.

- Significant differences between writing for WGA-covered anticipated top-grossing films and other types of writing work such as writing for smaller budget films, films primarily released via streaming, animated films not covered by the WGA, or television indicate a lack of sufficient substitutability to defeat an exercise of market power by a hypothetical monopsonist.
- Evidence of an exercise of market power following the merger of Disney and Fox in 2019, which shares many characteristics with this merger, provides further evidence that the market for writing services for WGA-covered anticipated top-grossing films in the United States is an appropriate relevant market.

3. Market shares and changes in market shares in this market due to the merger are consistent with substantial competitive harm, and meet the thresholds defined in the 2023 Merger Guidelines for a merger that is "presumed to substantially lessen competition or tend to create a monopoly."
    - I calculate shares based on different budget thresholds for "anticipated top-grossing films," different time periods, and based on production budget of films and number of writing jobs, separately.
    - All of the 12 different permutations I calculate meet the Merger Guidelines threshold for a merger that is "presumed to substantially lessen competition or tend to create a monopoly."
4. The merger will reduce competition for writers' services for WGA-covered anticipated top-grossing films through a number of distinct avenues.
    - The merger can harm writers through either unilateral or coordinated effects. In this declaration I focus on unilateral effects, though coordinated effects are also possible.
    - There are at least three distinct avenues of unilateral effects that would occur in this market: a reduction in competition for writer services, a reduction in bidding competition for writers' works, and a reduction in output of big-budget theatrical releases.
    - All three avenues would tend to reduce compensation for writers selling their services in this market.

(9) In the rest of this report, I explain these opinions and the evidence that supports them in more detail.

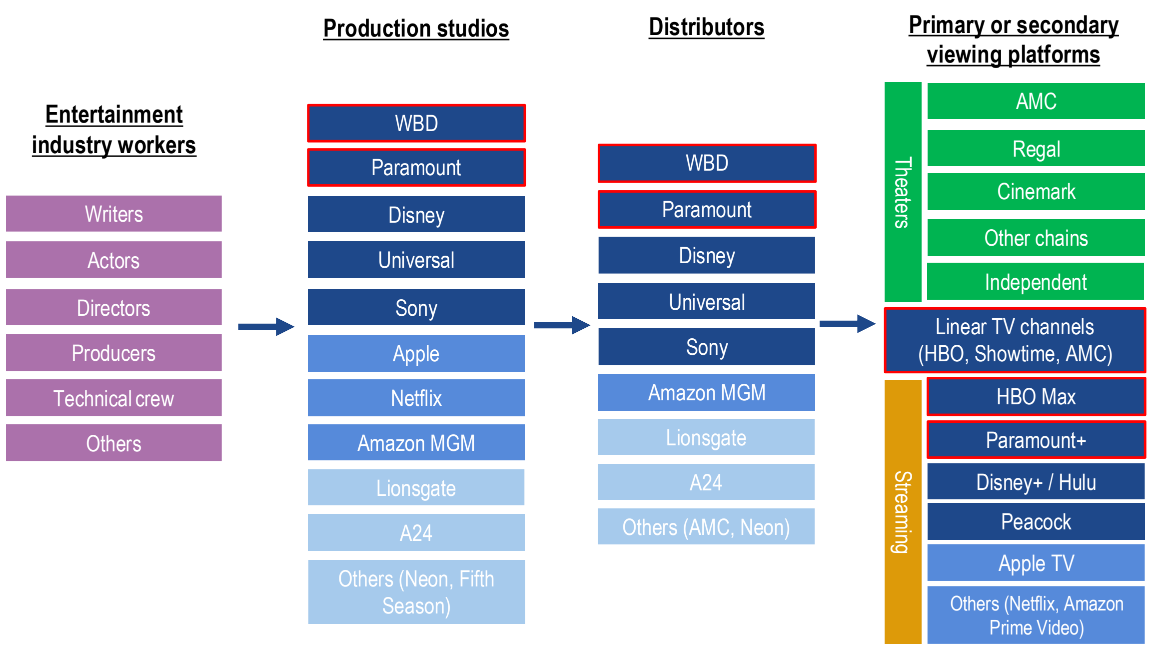
II. Background

(10) In this section, I briefly describe my understanding of the products and firms involved in this merger.

II.A. Film production and distribution

(11) Films are created and distributed for viewing with the contributions of a wide variety of individuals and companies. Figure 1 shows a simplified flowchart of the film creation and distribution process, outlining in red where the merging parties are active in the process.

Figure 1. Illustrative film creation and distribution supply chain



(12) Working from left to right on the figure, in the first step, entertainment industry workers are hired by production studios to create films. These films are then distributed by movie distributors, who may or may not be the same company that produced the film. For example, though Apple produces films in

its own studio, it typically partners with other companies such as Paramount and WBD to distribute its films theatrically.[1] Distribution typically entails additional promotional expenditures.[2]

(13) Films are then shown on some viewing platform. There are generally three viewing platforms for films: 1) theaters, 2) streaming platforms, and 3) linear TV.[3] While COVID and the advent of new streaming platforms in 2019–2020 meant that some films from major film studios were released first or simultaneously on streaming platforms or in a hybrid streaming/theatrical release, that pattern has become less common in recent years. Most big-budget films are released first in theaters and later made available on streaming platforms and/or shown on linear TV.[4]

(14) When a film is released for theatrical distribution, distributors negotiate with theaters to exhibit the film.[5] These negotiations generally revolve around revenue split terms between the distributor and the theater, the duration of the exhibition run of the film at a given theater, and exclusivity provisions about how long the film will be exclusive to theaters before being released on streaming.[6]

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1 For the film *Killers of the Flower Moon*, Apple was responsible for financing and serving as the creative studio, while Paramount distributed the film to theaters worldwide (Mike Fleming, Jr., "Apple to Team with Paramount on Scorsese-DiCaprio-De Niro Drama 'Killers Of The Flower Moon,'" *Deadline*, May 27, 2020, https://deadline.com/2020/05/killers-of-the-flower-moon-martin-scorsese-leonardo-dicaprio-robert-de-niro-apple-paramount-1202904816/). Similarly, Apple produced the film *F1: The Movie* but worked with WBD to distribute (Anthony D'Alessandro, "Apple Original Films' Formula 1 Brad Pitt Movie Lands Summer 2025 Global Theatrical Release with Warner Bros," *Deadline*, June 17, 2024, https://deadline.com/2024/06/brad-pitt-f1-apple-movie-warner-bros-release-1235976149/).

2 For example, Paramount's 2025 financial disclosures note that its costs related to distribution include the marketing costs associated with theatrical releases (Paramount Skydance Corporation, *Form 10-K 2025*, February 25, 2026, II-13).

3 Between 2021 and 2025, 78% of domestic films with budgets over $100 million had a theatrical release. The remaining 22% were released direct to streaming (Film list data). Some direct to streaming movies have concurrent limited theatrical releases. For example, Apple released *CODA* on Apple TV+ and in ~40 theaters on the same day (Rebecca Rubin, "Sundance Darling `CODA' to Debut in Theaters and on Apple TV Plus in August," *Variety*, April 21, 2021, https://variety.com/2021/film/news/coda-release-date-apple-tv-plus-sundance-1234956693/; Tom Brueggemann, "'CODA' Has Changed Oscar Movies' Release Strategies Forever," *IndieWire*, March 29, 2022, https://www.indiewire.com/features/general/coda-changed-oscar-movies-release-strategies-1234712039/). Prior to the growth of streaming platforms, consumers could also view movies by renting or purchasing DVDs. However, in recent years, DVD sales have fallen dramatically. Between 2008 and 2019, DVD sales fell by over 86% (Sarah Whitten, "The Death of the DVD: Why Sales Dropped More than 86% in 13 Years," CNBC, November 8, 2019, https://www.cnbc.com/2019/11/08/the-death-of-the-dvd-why-sales-dropped-more-than-86percent-in-13-years.html.) In 2023, BestBuy announced that it would stop stocking DVDs in its stores and Netflix ended its DVD rental service (Doc Louallen, "Best Buy Will Sell DVDs through the Holiday Season, then Discontinue Sales," *USA Today*, October 13, 2023, https://www.usatoday.com/story/money/2023/10/13/best-buy-no-longer-sell-dvds-after-holiday-season/71173846007/).

4 For example, Paramount CEO David Ellison stated in a March 2026 earnings call, "[L]arge franchises and big pieces of intellectual property are launched in theaters, period." (Paramount Skydance Corporation, "Paramount Skydance Corporation, Warner Bros. Discovery, Inc. – M&A Call," Transcript, March 2, 2026). In a February 2026 WBD earnings call, CEO David Zaslav stated that following COVID, WBD had pivoted away from a model of direct to streaming movies and believes that audiences will come back to theaters (Warner Bros. Discovery, Inc., "FQ4 2025 Earnings Call Transcripts," Transcript, February 26, 2026).

5 *See*, *e.g.*, AMC Entertainment Holdings, Inc. *Form 10-K 2025*, February 23, 2026.

6 Matthew Frank, "Small-Town Theaters vs. Studios: 'It Doesn't Feel Like the Industry Wants Us to Survive'," *The Ankler*, December 10, 2025, https://theankler.com/small-town-theaters-crowd-pleaser-letterboxd-issue-3/. In 2025,

(15) Films are differentiated by budget and genre, with some correlation between the two. Big-budget films need to attract a large audience to justify their expenditure, so that means they are more concentrated in certain genres—genres in which franchise IP exists and studios can bet on existing audiences.[7] Big-budget, wide audience films, sometimes called "tentpole films," often are focused on well-known franchise IP that both help ensure a large audience and help generate revenues through viewing of related franchise properties, merchandising, and future viewing on streaming platforms and linear TV.[8] Within the last five years, big-budget films with at least $100 million in production budget made up 9% of all theatrically released films, yet generated 61% of domestic box office revenue.[9]

(16) While there are a number of companies that produce films, certain studios are particularly focused on big-budget theatrical releases. Figure 2 below shows the number of big-budget theatrical releases and domestic box office revenues of what are known as the "big five" studios – WBD, Paramount, Disney, Universal, and Sony – as well as other film producers.[10]

AMC stated that its film exhibition costs (the licensing fees that theaters pay distributors) accounted for 48.1% of admissions revenues (AMC Entertainment Holdings, Inc. *Form 10-K 2025*, February 23, 2026, 13, 53). The seven largest movie studio distributors accounted for approximately 83% of AMC's 2025 US admission revenues. The seven largest distributors were all vertically integrated with production studios: Disney, WBD, Universal, Sony, Paramount, 20th Century Studios (owned by Disney), and Lionsgate Films. (AMC Entertainment Holdings, Inc. *Form 10-K 2025*, February 23, 2026, 13–14).

7 The biggest budget films are often in the action, adventure, superhero, and sci-fi/fantasy genres. These films often demand higher budgets due to specific associated filming needs but also tend to offer built-in audiences and international appeal, which make them a safer bet for studios to recoup massive production costs. *See, e.g.,* Alex Barasch, "After 'Barbie,' Mattel Is Raiding Its Entire Toybox, "*New Yorker,* July 2, 2023, https://www.newyorker.com/magazine/2023/07/10/after-barbie-mattel-is-raiding-its-entire-toybox; Shi Qi and Tin Cheuk Leung, "Globalization and the Rise of Action Movies in Hollywood," Association for Cultural Economics International, February 15, 2022, https://culturaleconomics.org/globalization-and-the-rise-of-action-movies-in-hollywood/; Auzinea Bacon, "A Summer of Sequels and Remakes: 'Fantastic Four,' 'Superman,' 'Lilo and Stitch' Among Box Office Winners," ABC17 News (August 10, 2025), https://abc17news.com/news/2025/08/10/a-summer-of-sequels-and-remakes-fantastic-four-superman-lilo-and-stitch-among-box-office-winners/ (describing box office success of superhero, action, kid-friendly, fantasy comedy remakes with "built-in awareness and interest").

8 A "tentpole" project is a big-budget project that is expected to be a commercial success, driving significant revenues for the production studio. *See, e.g.,* Henry Barnes, "Paul Greengrass Defends Hollywood's 'Tent-Pole' Film Strategy," *Guardian*, July 30, 2013, https://www.theguardian.com/film/filmblog/2013/jul/30/paul-greengrass-tent-pole-strategy-film; Ben Zimmer, "From Stage to TV to Screen, the Rise of 'Tentpoles,'" *Wall Street Journal*, May 15, 2015, https://www.wsj.com/articles/from-stage-to-tv-to-screen-the-rise-of-tentpoles-1431713515.

9 Derived from Film list data.

10 *See*, *e.g.*, Kyle Deguzman, "What Are the Major Film Studios — Hollywood's Big Five," *Studiobinder*, January 27, 2024, https://www.studiobinder.com/blog/what-are-the-major-film-studios/; Matt Goldberg, "The 5 Major Studios of Hollywood: Who They Are & What They Offer to Actors," *Backstage*, January 24, 2025, https://www.backstage.com/magazine/article/major-movie-studios-explained-78223/.

Figure 2. Big-budget theatrical film production figures by studio, 2021–2025

Production studio	Number of theatrical films with $100+ million production budget (2021–2025)	Domestic box office revenues from theatrical films with $100+ million in production budget (2021–2025)
WBD	21	$3,356,360,188
Paramount	9	$1,821,370,332
Disney	40	$8,798,103,149
Universal	13	$3,723,814,745
Sony	8	$1,847,686,842
Amazon MGM	2	$257,666,021
Apple	4	$338,397,213
Netflix	0	
Lionsgate	4	$377,903,954
A24	0	

Source: Film list data.
Note: Includes theatrically released movies with $100 million or more production budget. Limited to films with a domestic country of origin. Includes both WGA-covered and non-WGA-covered films.

(17) The merging parties in this matter are distinguished both by their focus on theatrical release and by their high degree of vertical integration throughout the steps of the supply chain relative to their competitors, as I discuss in the next section.

II.B. The merging parties

(18) On February 27, 2026, Paramount and WBD announced that they entered into a definitive merger agreement whereby Paramount will purchase WBD in a transaction worth $110 billion.[11] The proposed merger is a merger of two firms with similar business models and assets across film and TV production, distribution, and viewing platforms.

(19) Paramount is a broad-based media company headquartered in the United States that has operations in TV and film production, distribution, and viewing platforms.[12] Paramount owns multiple production studios, including Paramount Pictures, Skydance, Nickelodeon Studios, and Miramax. Paramount also distributes produced films to theaters domestically and internationally, negotiating revenue-share agreements with theaters.[13] In addition, it owns streaming services such as Paramount+, and Pluto

11 Paramount Skydance Corporation, *Form 10-K 2025*, February 25, 2026, I-6; Paramount, "Paramount to Acquire Warner Bros. Discovery to Form Next-Generation Global Media and Entertainment Company," news release, February 27, 2026, https://ir.paramount.com/news-releases/news-release-details/paramount-acquire-warner-bros-discovery-form-next-generation. In 2019, Paramount (then, ViacomCBS) acquired a 49% stake in Miramax. BeIN media group retained the remaining 51% stake (Paramount, "ViacomCBS and beIN MEDIA GROUP Complete MIRAMAX Transaction," April 30, 2020, https://ir.paramount.com/news-releases/news-release-details/viacomcbs-and-bein-media-group-complete-miramax-transaction).

12 Paramount Skydance Corporation, *Form 10-K 2025*, February 25, 2026, I-3.

13 "Theatrical Distribution," Paramount, accessed July 19, 2026, https://www.paramount.com/about/businesses/theatrical-distribution.

TV.[14] Paramount+ is a streaming video on demand (SVOD) platform, while Pluto TV is a free advertising-supported television (FAST) platform.[15] Paramount also owns linear TV channels such as CBS, MTV, Nickelodeon, BET, and premium pay TV channel Showtime (now called Paramount+ with Showtime).[16]

(20) WBD is also a broad-based media company headquartered in the United States.[17] Similar to Paramount, WBD operates across both TV and film, in both production, distribution, and viewing platforms.[18] WBD owns Warner Bros. Pictures Group, New Line Cinema, Warner Bros. Pictures Animation, and other production studios.[19] Warner Bros. Pictures Group handles the production and distribution of WBD's feature films.[20] WBD also owns multiple streaming platforms, including HBO Max and discovery+,[21] and linear TV channels such as TNT, TBS, CNN, and Discovery, in addition to HBO, its premium pay TV channel.[22]

(21) The merging parties are among a small group of firms with similar business models and assets involved in film and TV production and distribution sometimes known as the "big five" or "major film studios."[23] They were known as the "big six" before the 2019 purchase of Fox by Disney, which left five major film studios.[24] Today's "big five" have dominated the theatrical distribution of big-budget films since the Disney-Fox merger.

(22) Figure 3 below shows the assets and attributes of Paramount, WBD, and the rest of the "big five" studios, along with other studios that are smaller and/or more focused on streaming than theatrical releases.

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14 Paramount Skydance Corporation, *Form 10-K 2025*, February 25, 2026, I-4.

15 Paramount Skydance Corporation, *Form 10-K 2025*, February 25, 2026, I-4.

16 Paramount Skydance Corporation, *Form 10-K 2025*, February 25, 2026, I-3, II-21.

17 Warner Bros. Discovery, Inc., *Form 10-K 2025*, February 27, 2026, 7.

18 Warner Bros. Discovery, Inc., *Form 10-K 2025*, February 27, 2026, 7.

19 Warner Bros. Discovery, Inc., *Form 10-K 2025*, February 27, 2026, 10.

20 "Company Overview," Warner Bros., accessed July 17, 2026, https://www.warnerbros.com/studio/about/company-overview.

21 Warner Bros. Discovery, Inc., *Form 10-K 2025*, February 27, 2026, 9.

22 Warner Bros. Discovery, Inc., *Form 10-K 2025*, February 27, 2026, 9-10.

23 *See*, *e.g.*, Matt Goldberg, "The 5 Major Studios of Hollywood: Who They Are & What They Offer to Actors," *Backstage*, January 24, 2025, https://www.backstage.com/magazine/article/major-movie-studios-explained-78223/; The Editors of Encyclopaedia Britannica, "What are the current major studios in Hollywood?," *Encyclopedia Britannica*, March 3, 2026. https://www.britannica.com/question/What-are-the-current-major-studios-in-Hollywood.

24 Ben Fritz, "Disney Deal for Fox Would End Era of the 'Big Six' Studios," *Wall Street Journal*, December 11, 2017, https://www.wsj.com/articles/disney-deal-for-fox-would-end-era-of-the-big-six-studios-1512907201.

Figure 3. Attributes of the "big five" and other studios

Studio parent company	Live action production studio	Animation studio	Film distributor (domestic)	Film distributor (international)	SVOD platform	Linear TV (Domestic)
Paramount	X	X	X	X	X	X
WBD	X	X	X	X	X	X
Disney	X	X	X	X	X	X
Universal	X	X	X	X	X	X
Sony	X	X	X	X	Crunchyroll (anime only)	De minimis
Amazon MGM	X		X	De minimis	X	De minimis
Netflix	X	X			X	
Apple	X				X	
Lionsgate	X		X	De minimis		
A24	X		X	De minimis		

Source: Paramount Skydance Corporation, *Form 10-K 2025*, February 25, 2026, I-4–I-6; Warner Bros. Discovery, Inc., *Form 10-K 2025*, February 27, 2026, 7–11; The Walt Disney Company, *Form 10-K*, November 13, 2025, 4–6, 48–49; Comcast Corporation, *Form 10-K 2025*, February 3, 2026, 8–10; Sony Group Corporation, *Form 10-K*, March 31, 2026, 20–21, Declaration of Shawn Ryan [hereinafter "Ryan Decl."], July 17, 2026, ¶ 13; "About Amazon MGM Studios," Amazon MGM Studios, accessed July 20, 2026, https://press.amazonmgmstudios.com/us/en/corporate; Anthony D'Alessandro, "Amazon MGM Studios Exploring International Theatrical Distribution Arm – The Dish," *Deadline,* February 7, 2025, https://deadline.com/2025/02/amazon-mgm-studios-international-distribution-1236281739/; Anthony D'Alessandro, "Amazon MGM Studios & Sony Pictures Ink Multi-Year International Theatrical Distribution Deal," *Deadline*, June 27, 2025, https://deadline.com/2025/06/amazon-mgm-studios-sony-international-distribution-1236444141/; Ryan O'Rourke and Maggie Lovitt, "MGM+ Has Quietly Become One of the Best Places for Prestige TV on Streaming," *Collider*, https://collider.com/mgm-plus-has-become-one-of-the-best-places-for-prestige-tv-on-streaming/; Netflix, *Form 10-K 2025*, January 23, 2026, 5, 8; Natalie Oganesyan, "Netflix Film Chief Dan Lin Says Streamer Has "Accepted" It Won't Work With Directors Who Want Theatrical Releases," *Deadline*, June 6, 2026, https://deadline.com/2026/06/netflix-films-theatrical-release-dan-lin-1236942864/; Lesley Goldberg, "Apple Launches In-House Studio With 'Band of Brothers'/'The Pacific' Follow-Up," *Hollywood Reporter*, October 11, 2019, https://www.hollywoodreporter.com/tv/tv-news/apple-launches-house-studio-band-brothers-pacific-follow-up-1246746/; Mike Fleming, Jr., "Apple To Team With Paramount On Scorsese-DiCaprio-De Niro Drama 'Killers Of The Flower Moon'," *Deadline*, https://deadline.com/2020/05/killers-of-the-flower-moon-martin-scorsese-leonardo-dicaprio-robert-de-niro-apple-paramount-1202904816/; Lionsgate Studios Corp., *Form 10-K*, March 31, 2025, 7–8, 12–13; "A24 (Studio)," *Variety*, https://variety.com/t/a24/; Leo Barraclough, "A24 Signs Japanese Output Deal With Happinet Phantom Studios Ahead of Launch of Alex Garland's 'Civil War' at AFM," *Variety*, October 30, 2023, https://variety.com/2023/film/asia/a24-happinet-phantom-studios-alex-garland-civil-war-afm-1235772313/.
Notes: "Linear TV" is defined as traditional television, where programming is delivered via cable or broadcast at a specific time and watched in real time. *See, e.g.*, "What is linear TV and why is it important to advertisers?," Comcast Advertising, https://comcastadvertising.com/insights/knowledge-hub/what-is-linear-tv/.

(23) Figure 3 shows that Paramount, WBD, Disney, and Universal are the only four firms with robust assets across production studios, film and TV distribution, and viewing platforms. The fifth of the "big five," Sony, lacks substantial SVOD and TV assets, while other studios lack robust assets in one or more of these categories.

II.C. Screenwriting

(24) Unlike the early days of Hollywood where studios employed staffs of writers directly to draft and edit screenplays, screenwriting today is typically performed by freelance employees contracted by

production studios to perform particular writing services for a particular project. Writers are usually paid in the form of script fees for their output, typically around one or more defined "writing steps," such as a first draft, a rewrite, or polish.[25] Writers who are credited in a produced film are entitled to additional payments ("residuals") when the work is reused in secondary distribution channels, such as home video, premium cable, or streaming.[26] These residuals are generally calculated based on the specific reuse channels where the films are distributed and the price that the studio receives from that reuse.[27]

(25) Some writers complete scripts themselves and then pitch their scripts to studios. These are called "spec" scripts as they are pitched on speculation, and studios can sometimes get into bidding wars for the rights to these scripts, or for ideas that are later developed into scripts.[28]

(26) The WGA negotiates minimum payments for screenwriters under the Minimum Basic Agreement ("MBA"), based on what stage of the process the writer is being contracted to perform. For example, writers have different minimum payments negotiated for writing the first draft of a script than for a re-write or polish, and minimum rates further vary based on whether the material is original to the writer or adapted from existing source material.[29] Most writing services for big-budget films are paid at a level well above MBA-mandated minimums, however.[30] Beyond the requirements of the MBA, writers may also individually negotiate contingent compensation tied to box-office performance, writing credit, or profit participation in the film's financial success.[31]

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[25] WGAW Interrogatory Responses to Specification 5, 4 [redacted]).

[26] WGAW Interrogatory Responses to Specification 5, 6 [redacted]).

[27] WGAW Interrogatory Responses to Specification 5, 6 [redacted]).

[28] *See, e.g.*, Declaration of David Koepp [hereinafter "Koepp Decl."], July 19, 2026, ¶¶ 5–8 (describing bidding war between Universal, Sony, and Paramount over *Panic Room* spec script); Declaration of Adam McKay [hereinafter "McKay Decl."], July 20, 2026, ¶¶ 7–10 (describing bidding war over spec sale of *Anchorman: The Legend of Ron Burgundy*, with Universal and DreamWorks as top contenders, and later shopping *Talladega Nights: The Ballad of Ricky Bobby* spec script to Sony for a much higher price than obtained for *Anchorman*).

[29] *See* "Writers Guild of America 2023 Theatrical and Television Basic Agreement," Writers Guild of America, September 25, 2023, 82, https://www.wga.org/uploadedfiles/contracts/mba23.pdf. *See* WGAW Interrogatory Responses to Specification 5, 4 [redacted]

[30] Writers Guild of America West, "Screen Compensation Guide," July 2026, https://www.wga.org/members/employment-resources/writers-deal-hub/screen-compensation-guide; *See* WGAW Interrogatory Responses to Specification 5, 4 [redacted]

[31] WGAW Interrogatory Responses to Specification 5, 4 [redacted]

II.D. The Writers Guild of America

(27) The WGA consists of two independent labor unions, the WGAE and the WGAW, each representing the writers of screen, television, and digital media in contracts negotiation and enforcement, credit determination, and promotion of other benefits.[32]

(28) The WGAE is headquartered in New York City, and represents over 7,000 writers.[33] The WGAW is headquartered in Los Angeles, California, and represents over 10,000 writers.[34] The jurisdictions of the WGAE and WGAW are divided geographically, east and west of the Mississippi River respectively.[35]

(29) For the WGAE, the general fundamental requirement for membership is that the writer be hired by a signatory to a WGA-covered contract, to a position covered by the contract.[36] For the WGAW, while similar membership requirements also apply, there are additional requirements for a minimum amount of work to be eligible for full membership.[37]

(30) WGA members working in film are covered by a collective bargaining agreement, known as the Minimum Basic Agreement (MBA), that sets minimum compensation, benefits, and other terms for covered writers.[38] The terms in the MBA are negotiated typically every three years between the WGA and the Alliance of Motion Picture and Television Producers ("AMPTP"), the bargaining representative of the major film and TV studios.[39] All of the major film studios discussed in this declaration own entities that are signatories to the MBA. While the MBA establishes the minimum levels of compensation, writers can individually negotiate compensation above the minimum with the employing studios.

[redacted]).

32 "Guide to the Guild," Writers Guild of America West, accessed July 15, 2026, https://www.wga.org/the-guild/about-us/guide-to-the-guild.

33 Writers Guild of America East, *Labor Organization Annual Report (Form LM-2),* 2026, Schedule 13.

34 Writers Guild of America West, *Labor Organization Annual Report (Form LM-2)*, 2026, Schedule 13.

35 "Constitution and Bylaws of the Writers Guild of America, West, Inc.," Writers Guild of America West, accessed July 17, 2026, https://www.wga.org/members/membership-information/constitution.

36 "Member Eligibility," Writers Guild of America East, accessed July 15, 2026, https://www.wgaeast.org/eligibility/. ("You are eligible for Guild membership if you have been hired by a company who is a Guild signatory and your work falls under the jurisdiction of a FilmTV/Streaming, Broadcast/Cable/Streaming News, or Online Media contract.").

37 "How to Become a Member," Writers Guild of America West, accessed July 15, 2026, https://www.wga.org/the-guild/going-guild/join-the-guild.

38 "Minimum Basic Agreement (MBA) Overview," Writers Guild of America East, accessed July 15, 2026, https://www.wgaeast.org/guild-contracts/mba/overview/.

39 "Minimum Basic Agreement (MBA) Overview," Writers Guild of America East, accessed July 15, 2026, https://www.wgaeast.org/guild-contracts/mba/overview/.

(31) Negotiations between the WGA and studios can be contentious. For instance, the WGA went on strike on May 2, 2023, after an unsuccessful negotiation with the major film studios and streamers, including WBD and Paramount, under the umbrella of the AMPTP.[40] The WGA strike lasted 148 days and ended on September 27, 2023.[41] It, together with a partially overlapping strike by the Screen Actors Guild ("SAG-AFTRA"),[42] had a significant impact on many film and TV productions during the strike period.[43]

(32) Writing for animated films and series is not automatically covered by the WGA collective bargaining agreement. Writing work on certain animated projects is covered by agreements with The Animation Guild (TAG, IATSE Local 839), which covers over 6,000 animation workers, including animation writers.[44] TAG has its own master collective bargaining agreement as well as individual studio bargaining agreements.[45]

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40 "WGA on Strike," Writers Guild of America, May 1, 2023, https://www.wgacontract2023.org/announcements/wga-on-strike.

41 Ana Faguy and Siladitya Ray, "Hollywood Writers Strike Ends: Deal Finalized After 148 Days of Work Stoppage," Forbes, September 27, 2023, https://www.forbes.com/sites/anafaguy/2023/09/27/hollywood-writers-strike-ends-deal-finalized-after-148-day-work-stoppage/.

42 "SAG-AFTRA Members Approve 2023 TV/Theatrical Contracts Tentative Agreement," SAG-AFTRA, December 5, 2023, https://www.sagaftra.org/sag-aftra-members-approve-2023-tvtheatrical-contracts-tentative-agreement.

43 Sonaiya Kelley, "All the Major Movies and TV Shows Delayed by the Strikes," *Los Angeles Times*, September 19, 2023, https://www.latimes.com/entertainment-arts/business/story/2023-09-19/tv-shows-movies-delayed-list-writers-strike-sag-aftra.

44 "Why Do I Have to Join the Animation Guild?" The Animation Guild, accessed July 17, 2026, https://animationguild.org/helpie_faq/why-do-i-have-to-join-the-animation-guild-2/.

45 "TAG Contracts & Wages," The Animation Guild, accessed July 15, 2026, https://animationguild.org/tag-contracts-wages/.

III. Market definition

(33) Market definition is a central step in antitrust merger analysis. The purpose of delineating a relevant market in a horizontal merger case is to identify distinct product or service and geographic areas in which firms compete, to help assess any possible reductions of competition that may result from the merger.[46] Combining firms that are important competitors in an appropriately defined relevant market can harm competition and trading partners, absent verifiable and merger-specific procompetitive benefits from the combination sufficient to outweigh any anticompetitive effects.[47] This loss of competition can harm either buyers of the merged firm's products or services, or sellers of products or services to the merged firm.[48]

(34) Markets can thus be defined around firms as sellers of products or services, or as buyers of products or services.[49] In the former case, the "trading partner" of the merged firm might be, for example, the final consumer of the good or service. In the latter case, the trading partner can be the seller of a key input, such as labor or other services. In either case, harm can result from worse terms of trade for the trading partner, reduced volume of the product, reduced innovation, or reduced variety of the product.[50]

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46 A "horizontal" merger refers to a combination of two firms that compete in the same industry and stage of supply chain. In contrast, a "vertical" merger entails a combination of two companies at different stages of the same supply chain, such as a supplier of a product and the product's purchaser.

47 *See*, *e.g.*, Massimo Motta, *Competition Policy: Theory and Practice* (New York: Cambridge University Press, 2004), 233–234 ("This section focuses on the unilateral effects of a merger. It first shows that a merger is likely to increase the market power of the merging firms and decrease both consumer surplus and total welfare (Section 5.2.1). It then emphasizes (Section 5.2.3) that if the merger increases efficiency in the merging firms, the net effect on welfare of the merger is ambiguous, as the rise in market power can be outweighed by the price decrease possibly brought about by efficiency gains.").

48 *See* Department of Justice and Federal Trade Commission, 2023 Merger Guidelines, December 18, 2023, 26, https://www.ftc.gov/system/files/ftc_gov/pdf/2023_merger_guidelines_final_12.18.2023.pdf [hereinafter "2023 Merger Guidelines"], ("A merger between competing buyers may harm sellers just as a merger between competing sellers may harm buyers. The same – or analogous – tools used to assess the effects of a merger of sellers can be used to analyze the effects of a merger of buyers, including employers as buyers of labor. Firms can compete to attract contributions from a wide variety of workers, creators, suppliers, and service providers.").

49 *See* 2023 Merger Guidelines, 41 ("Another common method employed by courts and the Agencies [for market definition] is the hypothetical monopolist test. This test examines whether a proposed market is too narrow by asking whether a hypothetical monopolist over this market could profitably worsen terms significantly, for example, by raising price. An analogous hypothetical monopsonist test applies when considering the impact of a merger on competition among buyers.").

50 *See* 2023 Merger Guidelines, 34 ("Evidence that the merging parties intend or expect the merger to lessen competition, such as plans to coordinate with other firms, raise prices, reduce output or capacity, reduce product quality or variety, lower wages, cut benefits, exit a market, cancel plans to enter a market without a merger, withdraw products or delay their introduction, or curtail research and development efforts after the merger, can be highly informative in evaluating the effects of a merger on competition.") *See also* Merger Guidelines, 26–27 ("a reduction in competition among buyers can lead to artificially suppressed input prices or purchase volume … Where a merger between employers may substantially lessen competition for workers, that reduction in labor market competition may lower wages or slow wage growth, worsen benefits or working conditions, or result in other degradations of workplace quality.").

(35) An appropriate relevant market for assessing the impact of this merger is the market for writing services for WGA-covered anticipated top-grossing films. Since the writers providing these services are largely based in the United States, and the writing services are focused on US theatrical distribution, the appropriate geographic market for this assessment is the United States.

(36) In this section, I first describe broadly how relevant markets in merger cases are delineated, then review the available evidence in this matter that supports the relevant market definition described above.

III.A. Principles of market definition

(37) Delineating a relevant product market involves the assessment of potential substitution between products or services.[51] The central question it addresses is whether an exercise of market power within a given product or group of products would be profitable, or, alternatively, would induce purchasers of those products to switch to other products to such an extent that the attempted exercise of market power would be unprofitable.[52] If a firm can profitably exercise market power within a candidate market, then the candidate market is potentially a relevant antitrust market. There may be many potential relevant antitrust markets surrounding a particular product or service.[53] The economic analysis properly focuses on the relevant market or markets that best illuminate important aspects of competition.

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[51] *See* 2023 Merger Guidelines, 40 ("The outer boundaries of a relevant product market are determined by the 'reasonable interchangeability of use or the cross-elasticity of demand between the product itself and substitutes for it.'"). When I refer to "products" in this declaration I generally also include services.

[52] *See* 2023 Merger Guidelines, 43 ("To assess whether the hypothetical monopolist likely would undertake at least a SSNIP on one or more products in the candidate market, the Agencies sometimes interpret the qualitative and quantitative evidence using an economic model of the profitability to the hypothetical monopolist of undertaking price increases; the Agencies may adapt these tools to apply to other forms of SSNIPTs. One approach utilizes the concept of a 'recapture rate' (the percentage of sales lost by one product in the candidate market, when its price alone rises, that is recaptured by other products in the candidate market). A price increase is profitable when the recapture rate is high enough that the incremental profits from the increased price plus the incremental profits from the recaptured sales going to other products in the candidate market exceed the profits lost when sales are diverted outside the candidate market."). Market power refers to a firm's ability to profitably charge price above its marginal cost without losing all of its demand. *See* B. Douglas Bernheim and Michael D. Whinston, *Microeconomics*, 2nd ed. (New York: McGraw-Hill Education, 2014), 589 ("When a firm can profitably charge a price that is above its marginal cost, we say that it has market power," emphasis omitted); Luís M. B. Cabral, *Introduction to Industrial Organization,* 1st ed. (Cambridge, MA: MIT Press, 2000), 6 (market power is "the ability to set prices above cost, specifically above incremental or marginal cost"); Robert S. Pindyck and Daniel L. Rubinfeld, *Microeconomics*, 7th ed. (Upper Saddle River, NJ: Pearson Prentice Hall, 2009), 350 (market power is "the ability—of either a seller or a buyer—to affect the price of a good"); Dennis W. Carlton and Jeffrey M. Perloff, *Modern Industrial Organization* (Boston: Pearson/Addison Wesley, 2005), 642 ("A firm (or group of firms acting together) has market power if it is profitably able to charge a price above which would prevail under competition, which is usually taken to be marginal cost."); Dennis W. Carlton and Jeffrey M. Perloff, *Modern Industrial Organization* (Boston: Pearson/Addison Wesley, 2005), 783 (market power is "the ability of a firm to set price profitably above competitive levels (marginal cost).").

[53] *See* 2023 Merger Guidelines, 40 ("Within a broad relevant market, however, effective competition often occurs in numerous narrower relevant markets. Market definition ensures that relevant antitrust markets are sufficiently broad, but it does not always lead to a single relevant market.").

(38) In the case of *buying* products, the analysis is similar, and the same caveats apply.[54] The analysis asks whether an exercise of monopsony power within the candidate market would be profitable, or would induce sellers of products within the candidate market to substitute to alternatives to such a degree that the exercise of monopsony power would be unprofitable.[55]

(39) The hypothetical monopolist test ("HMT") provides a means for economists to address this question.[56] The HMT is a common methodology that uses information about substitution to delineate relevant antitrust markets.[57] It asks whether a hypothetical monopolist over a given group of products or services in a given geographic region "likely would undertake at least a small but significant and non-transitory increase in price ('SSNIP') or other worsening of terms ('SSNIPT') for at least one product in the group."[58] If so, then the group of products or services and geographic region can constitute a relevant antitrust market.[59] Even if there is some substitution between two products or groups of products, that does not mean they are in the same relevant product market.[60] The substitution must be significant enough that it would not be profitable for a hypothetical monopolist of a proposed market to exercise market power over one product or a group of products within the proposed market, given the constraints from outside the market.

(40) In the case of a market defined by the downstream purchase of an upstream input, such as labor, this test becomes a "Hypothetical Monopsonist Test," and analysis is similar. The question it asks is

[54] *See* 2023 Merger Guidelines, 41–42 ("When evaluating a merger of sellers, the HMT asks whether a hypothetical profit-maximizing firm, not prevented by regulation from worsening terms, that was the only present and future seller of a group of products ("hypothetical monopolist") likely would undertake at least a small but significant and non-transitory increase in price ("SSNIP") or other worsening of terms ("SSNIPT") for at least one product in the group. For the purpose of analyzing this issue, the terms of sale of products outside the candidate market are held constant. Analogously, when considering a merger of buyers, the Agencies ask the equivalent question for a hypothetical monopsonist.").

[55] Monopsony power refers to a firm's ability to profitably charge price for an input below the input's competitive price without losing all of its supply. *See* B. Douglas Bernheim and Michael D. Whinston, *Microeconomics*, 2nd ed. (New York: McGraw-Hill Education, 2014), 610 ("In an extreme case, called a monopsony market, there is just one buyer, called a monopsonist. In these circumstances, buyers may not need to take the price of a good as given. Rather, they can lower the price they pay, at least if they are willing to reduce the quantity that they purchase," emphasis omitted); Dennis W. Carlton and Jeffrey M. Perloff, *Modern Industrial Organization* (Boston: Pearson/Addison Wesley, 2005), 108 ("Using a definition analogous to the one for market power, we can define monopsony power as the ability to profitably set wages (or other input prices) below competitive levels.").

[56] 2023 Merger Guidelines, § 4.3.A.

[57] The HMT dates from at least 1959, when economist Morris Adelman expressed the basic idea. Morris A. Adelman, "Economic Aspects of the Bethlehem Opinion," *Virginia Law Review* 45, no. 5 (1959): 684, 688.

It was adopted by US enforcement agencies beginning with the 1982 Department of Justice Merger Guidelines and has been included in all subsequent versions of the Merger Guidelines through the current, 2023, version. I understand that courts have also recognized this test as a valid method of defining relevant markets. *See generally*, Gregory J. Werden, "The 1982 Merger Guidelines and the Ascent of the Hypothetical Monopolist Paradigm," *Antitrust Law Journal* 253 (June 4, 2002), https://www.justice.gov/sites/default/files/atr/legacy/2007/07/11/11256.pdf.

[58] 2023 Merger Guidelines, §§ 4.3.A–4.3.B.

[59] A HMT can also be assessed as a decrease in quality or other worsening of terms from a competitive baseline.

[60] For example, some consumers substitute between airline travel and train travel, but substitution between them would need to be substantial enough for the option of train travel to constrain the pricing of airline travel to a competitive level and vice versa in order for the two to be in the same relevant product market.

whether a downstream monopsonist purchaser of particular inputs could profitably *lower* price or other terms of trade for these inputs by a small but significant and non-transitory amount. In the case of downstream firms purchasing upstream labor, the question is whether a hypothetical monopolist of the particular labor services could worsen terms for providers of those services by lowering wages or reducing other benefits by a small but significant and non-transitory amount, without workers substituting to other jobs to such a degree that the wage decrease would be self-defeating.

(41) The HMT usefully provides a framework within which qualitative and available quantitative evidence on substitution can be evaluated, even without precise elasticity estimates, which are rarely available, especially in the absence of party discovery or subpoena power.[61]

(42) When examining market definition, courts sometimes look to "practical indicia," commonly referred to as "*Brown Shoe* factors" after the relevant Supreme Court case.[62] *Brown Shoe* practical indicia include industry recognition, product characteristics and use cases, unique production facilities, distinct customers, prices, sensitivity to changes in price, and vendor specialization.[63] These generally align with the HMT's focus on demand-side substitution (supply-side substitution in the case of the hypothetical monopsonist test), and assessment of these indicia can provide qualitative evidence to inform the HMT and thus market definition from an economics perspective.

(43) Direct evidence of an exercise of market power can also inform market definition. If market power is exercised within a candidate market despite the existence of alternatives outside of the candidate market, that provides evidence that those alternatives do not constrain a hypothetical monopolist (or a hypothetical monopsonist) from exercising market power within the market.[64]

(44) In the next section, I evaluate evidence relevant to market definition in the following categories:

1. Product characteristics
2. Quantitative evidence on distinctiveness of writing services for WGA-covered anticipated top-grossing films
3. Industry recognition of the market
4. Direct evidence of an exercise of market power within the market

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[61] Quantitatively, economists measure substitution between two products by the "cross-price elasticity" —the change in quantity in one product in response to a change in price in another. *See, e.g.*, B. Douglas Bernheim and Michael D. Whinston, *Microeconomics* (New York: Irwin/McGraw-Hill, 2008), 56.

[62] Jonathan B. Baker, "Stepping Out in an Old *Brown Shoe:* In Qualified Praise of Submarkets," *Antitrust Law Journal* 68, no. 1 (2000): 203–218. *See also* Brown Shoe Co., Inc. v. United States, 370 US 294 (1962).

[63] *See* 2023 Merger Guidelines, 41.

[64] *See*, *e.g.*, 2023 Merger Guidelines, 41 ("Direct evidence of the exercise of market power can demonstrate the existence of a relevant market in which that power exists.").

III.B. Relevant product market

(45) One appropriate relevant product market for assessing the competitive effects of the transaction is the market for writing services for WGA-covered anticipated top-grossing films. In this section, I discuss the evidence that supports that conclusion.

III.B.1. Features of the market

(46) The market is for writing services for particular types of films: specifically, films that are WGA-covered and are "anticipated top-grossing films." "Top-grossing films" refers to theatrical release box office grosses, and so this market excludes writing services for films that are exclusively or primarily distributed for home viewing through, e.g., streaming services.[65] "Anticipated" top-grossing films are distinct from other films because they have higher budgets and thus generally pay writers more than other types of films. I proxy for "anticipated top-grossing films" by analyzing films with big budgets. Some films end up being high grossing even with small budgets – famously, the *Blair Witch Project* in 1999 had a budget of under $100,000 yet grossed $140 million in domestic box office receipts[66] – but these successes are often unanticipated and the economics of these types of movies for screenwriters differ from big-budget movies, even if they ultimately are successful.[67] As discussed in Section II.D, the vast majority of anticipated top-grossing US films are WGA-covered, with exceptions being animated films, whose writers may be covered by the animation guild.

(47) I use different production budget thresholds to define a "big-budget" film. One standard that has been referred to in the industry is $100 million.[68] I calculate market shares and concentration using this threshold, but I also check the robustness of the analysis to other thresholds.

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[65] The classification of a film as a streaming or theatrical release comes from the WGA, which maintains an annual film list incorporating data from Comscore, S&P, and industry databases, and designates films as a theatrical or streaming release. Films with a limited theatrical release but that are mainly marketed as available on a streaming service or are only theatrically released to qualify for awards are considered to be streaming releases. Films with substantial concurrent theatrical and streaming releases are considered theatrical.

[66] *Blair Witch Project*, IMDb, accessed July 19, 2026, https://www.imdb.com/title/tt0185937/.

[67] *See*, *e.g.*, Ashley Scott Meyers, SellingYourScreenPlay.com, "How much should a writer get paid for their screenplay?" https://www.sellingyourscreenplay.com/screenwriting-faq/how-much-should-a-writer-get-paid-for-their-screenplay/, accessed July 21, 2026, ("There are some general guidelines that you should keep in mind when you're negotiating. As a rule the screenwriter will get between 2% and 3% of the production budget."); Matt Turner, "The simple reasons movie studios keep putting out blockbuster franchise movies," *Business Insider*, December 21, 2015, https://www.businessinsider.com/movie-studios-produce-more-franchise-movies-2015-12 ("Box office flops are going to come up from time to time, but your big bets, and especially the ones with IP backing them, should be enough to cover them. And that's why you're seeing studios move towards IP and franchise films like the Harry Potter series, where you had eight films that generated $7.7 billion over the full run. Those big hits will be able to absorb the losses from the John Carter's. Today, more than ever we're seeing this blockbuster strategy at studios where they rely on really big, tent-pole films – like the Star Wars movies – to generate sufficient profits that cover all of the misses and make the overall slate profitable").

[68] A film's production budget generally includes all costs associated with developing a film, including the costs associated with buying the rights to a film, staff wages, props and equipment, and editing costs (Annie Mueller, "Why Movies Cost

(48) Writers for big-budget films are generally freelance employees, covered by the terms of the WGA collective bargaining arrangement, the MBA.[69] Screenwriters and their representatives usually negotiate with studios over compensation and contractual terms for script services such as writing a first draft, rewriting, or polishing a script.[70] Though the MBA sets minimum compensation depending on the type of work, and sets other contractual terms, writers on big-budget theatrical films generally are compensated well above the WGA minimums.[71] Writers can also sell their own draft or completed scripts, not created under contract, to studios "on spec," with or without contracting for additional writing services.[72] They can also sell an idea or a conception for a movie that is not yet a completed script.[73] These services are all encompassed in the relevant market.

(49) Competition between studios for writing services can play out in different ways depending on the type of service offered. When hiring writers under contract to provide script services, studios usually negotiate a contract with the writer or the writer's representative specifying a particular payment and other terms for particular services. Selling spec scripts or even concepts or ideas that are not yet completed scripts can involve bidding wars from studios for the rights to develop the script. For instance, the rights for the "viral horror sensation" *Siren Head* were recently purchased by WBD after a bidding war between the "big five" film studios.[74]

(50) The central question for market definition purposes is whether a hypothetical monopsonist purchaser of writing services for WGA-covered anticipated top-grossing films would be able to profitably impose a SSNIPT, in this case, a *reduction* in compensation or other terms to writers, without writers substituting away to other employment options such as streaming films, non-WGA-covered films, lower budget films, or TV to a sufficient degree to make such an SSNIPT unprofitable. In the following sections I review categories of evidence relevant to the likelihood of such substitution.

So Much to Make," Investopedia, October 3, 2024, https://www.investopedia.com/financial-edge/0611/why-movies-cost-so-much-to-make.aspx). I discuss additional evidence regarding industry recognition of the $100 million threshold in Section III.B.4 below.

69 The Writers Guild of America 2023 Theatrical and Television Basic Agreement, accessed July 19, 2026, https://www.wga.org/uploadedfiles/contracts/mba23.pdf.

70 Declaration of Michele Mulroney [hereinafter "Mulroney Decl."], July 18, 2026, ¶¶ 6–8.

71 Mulroney Decl., ¶¶ 6, 11.

72 McKay Decl., ¶ 4; Koepp Decl. ¶¶ 3, 5–6

73 *See*, *e.g.*, Ben Fritz, "Hollywood's Horror-Meme Gold Rush Is Minting Millionaires," *Wall Street Journal*, July 10, 2026, https://www.wsj.com/business/media/hollywoods-horror-meme-gold-rush-is-minting-millionaires-fe5fb799 ("The deal was part of a new Hollywood gold rush to find concepts and talent online that could fuel the next horror hit, like 'Backrooms' and 'Obsession.'… Now studios are trying to find the next potential horror hit that has already proven its appeal to Gen Z on YouTube, Reddit or Roblox. 'We're seeing them as a resource for adaptations the same way we look at books and other media,' said Michael De Luca, co-chair of Warner's motion-picture group…. Numerous agents and producers are preparing pitches based on internet horror concepts that they plan to try to sell to studios in the coming weeks, people familiar with the matter said.")

74 Borys Kit, "'Siren Head' Horror Movie, Based on Internet Sensation, in the Works with Zach Cregger, Brian Duffield," *The Hollywood Reporter*, July 1, 2026, https://www.hollywoodreporter.com/movies/movie-news/siren-head-horror-zach-cregger-brian-duffield-1236634292/.

III.B.2. Unique product characteristics

(51) While there are a number of projects that WGA-covered screenwriters work on in addition to anticipated top-grossing theatrical films, including writing for lower budget theatrical films, television, and films released primarily on streaming services, anticipated top-grossing theatrical films have distinct characteristics that make them not close substitutes for other types of writing services.

(52) Compared to smaller budget films, anticipated top-grossing films offer screenwriters higher salaries and potentially other benefits.[75] Top-grossing theatrical releases tend to make substantial money subsequent to theatrical release, through sequential windowing on streaming, rentals, and physical media sales, some of which may be shared with screenwriters in the form of residuals.[76] Writers may also individually negotiate for bonuses tied to box office and a share of profits, called profit participation, which also permit the writer to participate in the project's earnings as it proceeds through initial and sequential windows.[77] In addition to financial benefits, being hired as a writer for an anticipated top-grossing film conveys prestige on a screenwriter that can increase future earnings.[78] Film budgets also impact what kind of story and scenes a writer can create. For instance, a lower budget film might be limited to filming at a small number of locations whereas a film with a larger

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[75] "The Writers' Deal Hub: Screen Compensation Guide," Writers Guild of America West, August 2025, https://www.wga.org/members/employment-resources/writers-deal-hub/screen-compensation-guide, noting that median income for writers at major film studios and streaming services was $50,000 higher than the average across all studios and that major film studios and streaming service projects typically have larger than average budgets.

[76] Mulroney Decl., ¶ 10 ("A studio that can produce and distribute a project through multiple windows, including a wide theatrical release and streaming platform, is a much stronger partner than one without access to a variety of distribution channels. . . . [Distribution] uncertainty is also a compensation risk, because residuals and backend compensation depend on how and whether a project is ultimately distributed."). *See also* Robert Fishman, Justin Cooper, and James Caceres, "U.S. Theaters: Winning the Rebound," MoffettNathanson, April 10, 2026, 7 ("Universal's decision to extend its exclusivity window to 45 days signals that studios have concluded, after evaluating the financial impact of longer vs. shorter theatrical runs, that there is more value in a full theatrical release. This likely reflects both the direct box office benefits of theatrical vs. at-home distribution and that theatrical releases tend to overperform on streaming relative to straight-to-streaming titles."); Alejandro Rojas, "How Movies Increasingly Drive Streaming Revenue," *The Hollywood Reporter,* October 10, 2025, https://www.hollywoodreporter.com/business/business-news/movies-streaming-revenue-1236397618/ ("Within movie-driven revenue, Pay-2/3 and library windows now account for about two-thirds of total movie value, up from just 26 percent in 2022."); *See also* Koepp Decl., ¶ 13 ("[A] theatrical film … has value both creatively (the sense that you made something people actually absorbed and carried with them) and economically, because a film that stays in the cultural conversation generates the downstream revenue that funds a writer's long-term livelihood.")

[77] WGAW Interrogatory Responses to Specification 5, 4 [redacted].

[78] Mulroney Decl., ¶ 11 ("That a film may be widely released in theaters is also an important consideration for a writer, as it has direct and material consequences for a writer's compensation. . . . [T]he model of wide theatrical release is typically followed by a cascade of downstream markets that generate additional revenue streams . . . Writers earn residuals at every stage as the movie moves through successive distribution windows."); Koepp Decl., ¶ 13 ("The wide theatrical release, however, is the standard against which everything else is measured.").

budget can film at a greater variety of locations.[79] Similarly, a big-budget fantasy film can afford the computer-generated imagery often necessary to bring key elements to life for the viewer.[80]

(53) Writing for television is distinct from film writing both in terms of the nature of the written product and in compensation. As one screenwriter observed, "screenwriting is as different from television writing as a city is from a pair of socks."[81] Unlike screenwriting, which builds toward a single, self-contained work, episodic television writing requires developing characters and storylines across episodes and seasons.[82] Television compensation is structured differently as well. Television writers are generally paid a combination of script fees and weekly or per-episode fees for their writing services, rather than being paid solely through fees related to discrete writing steps, which is the typical structure of film compensation.[83] Buyers also recognize the distinction between film and television writing: studio executives operate in separate film and television divisions with separate budgets and separate mandates.[84] The budget and project slate between a studio's film division and television division is not interchangeable.[85]

(54) Theatrical releases are also distinct from films shown primarily or only on streaming. Theatrical releases create a different viewing experience than home viewing, and are generally considered to have a greater cultural impact than streaming-only film releases.[86] Some prominent directors refuse to make direct-to-streaming movies, arguing that "the magic happens when strangers gather in a dark

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79 *See*, *e.g.*, "Small Budget, Big Dreams: Landing the Perfect Location for Less," Entertainment Partners, accessed July 21, 2026, https://www.ep.com/blog/small-budget-big-dreams-landing-the-perfect-location-for-less/ ("Travel and accommodation can eat up a significant portion of your budget, so thinking practically about your location is crucial. Selecting a location that can act as several settings within the film (e.g., a building with multiple rooms which can multi-task as a home, a school and an office), or better yet, limiting the shoot to a single location could be a great way to conserve funds. … Managing a shoot in a single location also simplifies logistics and can save you time and money. Consider that in a single location you won't have to move people or equipment between multiple points, and setup and breakdown times can be drastically reduced allowing for more efficient use of crew time. It's also worth considering that insurance policies for film production can be impacted by the number of locations. Fewer locations reduces the risks of accidents, damage, or liabilities at multiple sites, lowering your coverage costs.").

80 *See*, *e.g.*, Angel Shaw, "The 10 Most Expensive Fantasy Movies Ever, Ranked By Budget," Screenrant.com, May 24, 2022, accessed on July 21, 2026, https://screenrant.com/most-expensive-fantasy-movies-ever-ranked-budget/ ("Fantasy movies, in general, require a great deal of dough to find success on the big screen, but some even more than others"); David Lugo, "Visual Effects Cost: The Numbers You Need to Know," ActionVFX, June 13, 2023, https://www.actionvfx.com/blog/visual-effects-cost-the-numbers-you-need-to-know ("Blockbuster movies packed with special effects cost tens of millions of dollars (or more) to produce, and a significant portion of the budget is dedicated to VFX").

81 Koepp Decl., ¶ 14.

82 Koepp Decl., ¶ 14.

83 Schedule of Minimums, Writers Guild of America 2023 Theatrical and Television Basic Agreement, https://www.wga.org/uploadedFiles/contracts/2023_Schedule_of_Minimums_Year_3.pdf.

84 Koepp Decl., ¶ 15.

85 Koepp Decl., ¶ 15.

86 Mulroney Decl., ¶ 11 ("A wide theatrical release generates cultural impact that does not occur for a limited release or direct to consumer release."); Koepp Decl., ¶ 13 ("[A] film in wide theatrical release drives conversation in a way that a streaming release simply does not. … a streaming release generates attention for perhaps a week, and then it vanishes. In contrast, a theatrical film that connects with audiences lingers. It remains in the conversation.").

room to share an emotional experience"[87] and "the immersive quality of the [IMAX format] image is second to none, drawing the audience into the action in the most intense way possible,"[88] whereas watching a movie on a television can be considered a "disposable experience."[89] Along the same lines, Dan Lin, chair of Netflix's film division, recently said: "There is a group of filmmakers who still want theatrical. Those are filmmakers that we've accepted we just won't work with."[90]

(55) The number of big-budget streaming releases, primarily produced by Netflix, is outnumbered by big-budget theatrical releases, as shown in Figure 4 below. Also shown in the figure, the major film studios have focused almost exclusively on theatrical release for big-budget films.

Figure 4. Big-budget films released via primarily streaming or theatrical distribution

Year	Major film studios		Non-major film studios		All studios	
	Streaming	Theatrical	Streaming	Theatrical	Streaming	Theatrical
2015	0	18	0	6	0	24
2016	0	21	0	10	0	31
2017	0	21	0	7	0	28
2018	1	20	0	3	1	23
2019	0	21	0	5	0	26
2020	0	5	0	0	0	5
2021	1	17	1	4	2	21
2022	1	13	10	0	11	13
2023	1	23	3	7	4	30
2024	0	19	6	8	6	27
2025	3	19	6	1	9	20

Source: Film list data.
Note: Includes all domestic films with $100M or more in production budget, both WGA-covered and non-WGA-covered.

(56) Some major film studios experimented with hybrid streaming/theatrical models in the wake of COVID and the launch of major new streaming platforms around the same time: Disney+ in 2019, HBO Max and Peacock in 2020, and Paramount+ in 2021.[91] WBD, for example, released its entire

87 Jason Hellerman, "Why Steven Spielberg Insists His Movies Stay on the Big Screen," nofilmschool, June 10, 2026, https://nofilmschool.com/steven-spielberg-big-screen.

88 Nick Divischek, "Christopher Nolan vs. Netflix – Why He Won't Work for Them," *CineD*, August 1, 2017, https://www.cined.com/christopher-nolan-vs-netflix-why-he-wont-work-for-them/.

89 Jordan Rose, "Quentin Tarantino Explains Why the Movie Theater Experience Still Matters," *Complex*, November 10, 2021, https://www.complex.com/pop-culture/a/j-rose/quentin-tarantino-explains-why-the-movie-theater-experience-still-matters.

90 Nicole Sperling, "Netflix Is Done Coddling Hollywood", *The New York Times*, June 4, 2026, https://www.nytimes.com/2026/06/04/business/media/dan-lin-netflix-hollywood.html.

91 Libby Hill, "Disney+ and Apple TV+: As the New Streaming Wars Begin, Which Service Has the Edge? — TV Podcast," *IndieWire*, October 17, 2019, https://www.indiewire.com/features/general/disney-plus-apple-tv-plus-new-streaming-wars-tv-podcast-millions-of-screens-1202182735/; Dade Hayes, "HBO Max Launch: Here's What You Need to Know," *Deadline*, May 26, 2020, https://deadline.com/2020/05/hbo-max-launch-what-you-need-to-know-

2021 film slate simultaneously in theatres and in a 31-day window on HBO Max.[92] That strategy turned out to be economically unsuccessful, and cost the studio in excess of $200 million owed to talent contractually entitled to their share of box office revenue. The studio then reverted to the previous practice of a theatrical-exclusive window before moving to a streaming platform.[93] Following the studio's shift away from its 2021 hybrid release model, CEO David Zaslav said: "Strategically, we've looked hard at the streaming business and how direct-to-streaming movies perform. The idea of expensive films going direct to streaming—we can't find an economic case for it. We can't find an economic value to it so we're making a strategic shift."[94]

(57) A final qualifier in the market is "WGA-covered." This category includes the vast majority of anticipated top-grossing US films with the exception of animated films, which are sometimes covered by a collective bargaining agreement with a different union.[95] Animation writing, when it does not fall under the MBA, does not include the residuals or WGA benefits guaranteed to live action writers covered by the MBA, making such jobs generally not a close substitute for big-budget live action film writing.[96] As I show in the next section, big-budget film writers tend to write for either animated films or live action films but not both.

1202943369/; Paramount+, "ViaComCBS Announces March 4 Launch Date for Paramount+," news release, January 19, 2021, https://ir.paramount.com/news-releases/news-release-details/viacomcbs-announces-march-4-launch-date-paramount. Paramount+ was a rebrand of CBS All Access (Cynthia Littleton, "CBS All Access to Rebrand as Paramount Plus Early Next Year," *Variety*, September 15, 2020, https://variety.com/2020/tv/news/cbs-all-access-paramount-plus-rebrand-game-godfather-1234769980/). In the data used in Figure 4, a movie that is released simultaneously on streaming and in wide release in theatres is classified as a theatrical release.

[92] *See*, *e.g.*, Aaron Couch and Pamela McClintock, "Warner Bros. Smashes Box Office Windows, Will Send Entire 2021 Slate to HBO Max and Theaters," *The Hollywood Reporter*, December 3, 2020, https://www.hollywoodreporter.com/movies/movie-news/warner-bros-smashes-box-office-windows-will-send-2021-slate-to-hbo-max-and-theaters-4099819/ (describing Warner Bros. sending its 2021 slate of 17 releases—including *Dune, The Suicide Squad*, and *The Matrix 4*—to HBO Max for 31 days beginning the day the films were theatrically released).

[93] Anthony D'Alessandro, "With Tentpoles Bound to Surve the 2022 Box Office, the Great Theatrical-Streaming Day & Date Experiment Goes Out Like a Dud in 2021," *Deadline*, January 3, 2022, https://deadline.com/2022/01/2022-box-office-theatrical-streaming-day-date-experiment-1234902774/.

[94] Cynthia Littleton, "Warner Bros. Discovery Stock Plunges Following Earnings Loss and Forecast Revisions," *Variety*, August 5, 2022, https://variety.com/2022/tv/news/warner-bros-discovery-stock-plunge-earnings-1235334574/.

[95] "How to Get Your Feature Animation Projects Covered," Writers Guild of America West, accessed July 19, 2026, https://old.wga.org/uploadedfiles/the-guild/going-guild/talking-points-feature-animation-coverage.pdf ("Unlike live-action, where WGA coverage is the default, in animation, the writer must insist on it when first making the deal.").

[96] "The Animation Guild Stands Up for Animation Writers," Animation Guild, https://animationguild.org/pay-animation-writers/ ("Most writers working on animated shows do not receive residuals or benefit from merchandising licenses even though their contributions have led to billions of dollars of revenue."); *See also,* Gene Maddaus, "Animation Writers Hope to Close Pay Gap With Their Live-Action Counterparts," *Variety*, November 23, 2021, https://variety.com/2021/film/news/animation-writers-animation-guild-labor-negotiations-1235118230/ ("Animation writers are organized under the International Alliance of Theatrical Stage Employees, and have long been paid much less than their live-action counterparts, who belong to the Writers Guild of America.").

III.B.3. Quantitative evidence on distinctiveness of writing services for WGA-covered anticipated top-grossing films

(58) The key question for market definition purposes is whether, faced with a reduction in compensation for WGA-covered anticipated top-grossing films, writers would easily switch to other types of writing projects without any significant loss in compensation, such that producers would not be able to profitably implement such a price decrease. I discussed above ways in which different types of writing assignments are distinct. In this section I use available data to assess differentiation between writers for WGA-covered anticipated top-grossing films and other types of films.

III.B.3.a. Higher earnings for big-budget screenwriters

(59) Analysis of earnings data provided by the WGA shows that screenwriters for big-budget theatrical releases are distinct from other screenwriters in that they tend to have substantially higher earnings. Figure 5 below shows average quarterly screenwriting earnings for WGA members who have written on a produced big-budget film released between 2021 and 2024, compared to earnings for WGA members without such a work history. It shows a large, persistent difference in earnings over the time period, indicating that the two types of screenwriters have a materially different compensation level.

Figure 5. Average reported quarterly screen earnings, by screenwriter big-budget theatrical film job history, 2021Q1–2025Q2

[redacted]

Source: WGAW and WGAE screen earnings data, 2021-2025, and WGA writing jobs and production budget data from the WGAW.
Notes: [redacted]

(60) [redacted]

(61) [redacted]

Figure 6. Average reported quarterly screen earnings, by various categories of theatrical film production budget, 2021Q1–2025Q2

[redacted]

Source: WGAW and WGAE screen earnings data, 2021-2025, and WGA writing jobs and production budget data from the WGAW.
Notes: [redacted]

III.B.3.b. Differentiation between screenwriters for WGA-covered vs. non-WGA-covered films.

(62) As discussed in Section III.B.2, the set of WGA-covered films largely does not include animated films. To assess relevant distinctions between live action and animated big-budget films from the writers' perspective, I examined the extent to which screenwriters on big-budget live action films also have a credit on a big-budget animated film, and vice-versa.

(63) Figure 7 reports the number of unique screenwriters that received a big-budget film credit or credits within the period 2014–2025. It breaks out screenwriters by the number credits received (1, 2, 3, 4, or

5) and by whether the credits are exclusively for non-animated films, exclusively for animated films, or span both types of films.

(64) As apparent from Figure 7, screenwriters with two or more big-budget film credits tend to write for either live action or animated features, but not both. Of the 46 writers with exactly two big-budget film credits, 37 hold credits exclusively for non-animated films, 8 hold credits exclusively for animated films, and only one holds credits for both types of films. Of the 16 screenwriters with three or more big-budget film credits, none holds credits for both non-animated and animated films. Cross-category credits are thus observed at a rate of 1 in 62 among writers for whom such credits are possible.[97] This number stands in stark contrast against an expected rate of approximately 23 in 62 under random assignment of writers to projects that one might expect if writing for live action films and animated features were close substitutes.[98]

Figure 7. Number of screenwriters by number and type of big-budget film credits, 2014–2025

Type of film credit	Number of screenwriters with big-budget film credits					
	1 credit	2 credits	3 credits	4 credits	5 credits	Total
Non-animated films only	154	37	7	4	2	204
Animated films only	37	8	2	0	1	48
Both animated and non-animated films	0	1	0	0	0	1
Total	**191**	**46**	**9**	**4**	**3**	**253**

Source: The Numbers movie summary and technical credits data. Limited to persons with a technical credit of screenwriter for films produced within 2014–2025.
Notes: Big-budget films have production budgets of $100M+ or more. Animated films have digital animation as their production method, while non-animated films have live action or animation/live action as their production method. The big-budget film sample consists of 65 animated film writing credits (54 by Disney-Fox, 8 by Universal, and 3 by Sony as distributors) and 276 non-animated film writing credits.

(65) Figure 8 below presents an analogous tabulation of the screenwriters using a broader definition of screenwriting credits as identified by public sources. The results are qualitatively the same. Cross-category screenwriters are observed at a rate of 5 in 91 among writers for whom such credits are possible, against an expected rate of approximately 40 in 91 under random assignment of writers to projects using the distribution of animated and non-animated writing credits from the data.[99]

97 46 writers with exactly two credits plus 16 writers with three or more credits yields a total of 62 writers.

98 The 253 screenwriters shown in Figure 7 received a total of 341 big-budget film credits, out of which 276 are for non-animated films and 65 are for animated films. Using this information, the estimated probability of writing for a non-animated film is 81% (276/341) and that for animated film is 19% (65/341). I use these probabilities to calculate the expected rate of cross-category credits. The details of this calculation are included in my backup materials.

99 The calculation of the expected rate of cross-category credits is analogous to that performed in connection with Figure 7. For details, see my backup materials.

Figure 8. Number of people with screenwriting or story credits by number and type of big-budget film credits, 2014–2025

Type of film credit	Number of screenwriters with big-budget film credits						
	1 credit	2 credits	3 credits	4 credits	5 credits	7 credits	Total
Non-animated films only	214	44	15	6	3	1	283
Animated films only	76	12	4	0	1	0	93
Both animated and non-animated films	0	4	1	0	0	0	5
Total	**290**	**60**	**20**	**6**	**4**	**1**	**381**

Source: The Numbers movie summary and technical credits data. Limited to persons with the following technical credits: screenwriters, story creator, head of story, and story supervisor for films produced within 2014–2025.
Notes: Big-budget films are defined as those with production budgets of $100M+ or more, including theatrical and streaming releases. Animated films have digital animation as their production method, while non-animated films have live action or animation/live action as their production method. The big-budget film sample consists of 122 animated film writing credits (107 by Disney-Fox, 12 by Universal, and 3 by Sony as distributors) and 399 non-animated film writing credits.

(66) Taken together, the two figures above suggest that it is uncommon for screenwriters to substitute between the two categories of writing for big-budget films.

III.B.4. Industry recognition

(67) Industry participants recognize the distinctiveness of big-budget theatrical releases relative to other types of film and TV content. For example, on a Paramount earnings call on May 8, 2025, Co-CEO Brian Robbins noted that big-budget theatrical releases were not only valuable for Paramount through their box office sales, but also had a follow-on benefit of driving users to Paramount+, Paramount's streaming platform, and increasing viewership of other related titles on the streaming platform.[100]

(68) Industry analysts also focus on big-budget theatrical releases when forecasting performance for the domestic box office, with widely recognizable IP-driven franchise entries often anchoring the slate of

[100] Paramount Skydance Corporation, "Paramount Skydance Corporation, FQ1 2025 Earnings Call," Transcript, May 8, 2025, 5–6 ("The performance of the [filmed entertainment] segment in Q1 was strong, thanks to the major theatrical success of *Sonic the Hedgehog 3*, delivering box office sales of nearly $500 million, our franchise best which continued to excel in both home entertainment and streaming. Sonic 3 was a top acquisition driver on Paramount+ following its mid-February release and ranks as a top 5 movie on the service. Not only did the growing fan base come to the service for *Sonic 3*, but we also saw a nice lift for Sonic 2 and the Knuckles series on Paramount+"). Sonic the Hedgehog 3 had an estimated production budget of $122 million (*Sonic the Hedgehog 3*, IMDb, accessed July 19, 2026, https://www.imdb.com/title/tt18259086/). Large theatrical releases can also increase the value of a studio's intellectual property and franchises, providing them benefits across projects and business lines. For example, in the same earnings call Paramount Co-CEO Brian Robbins added that *Mission: Impossible - The Final Reckoning* promises to be a global event with its premiere on May 23. *Mission* continues to be instrumental in lifting the value of Paramount IP, permeating almost every line of business across the organization since the film franchises inception nearly 30 years ago." (Paramount Skydance Corporation, "Paramount Skydance Corporation, FQ1 2025 Earnings Call," Transcript, May 8, 2025, 6). *Mission: Impossible – The Final Reckoning* had an estimated production budget of $350 million. *See Mission: Impossible – The Final Reckoning*, IMDb, accessed July 19, 2026, https://www.imdb.com/title/tt9603208/.

upcoming releases.[101] Promotional campaigns for these releases often generate significant buzz. For example, among films slated for release in 2026, all ten of the top ten films by cumulative marketing views in the first quarter of 2026 were IP-driven franchise films.[102]

(69) Big-budget films (over $100 million) also make up a significant proportion of box office revenue. For example, a March 2025 TD Cowen analyst report noted that "in 2024, $100MM+ budgeted films accounted for 69% of total [domestic box office revenue], higher than any other non-pandemic year since 2010, and even higher than previous highs in 2021-22."[103]

(70) While there is not a single defined cutoff for a film with a large production budget, several sources refer to a $100 million threshold. For instance, the TD Cowen analyst report mentioned above uses that threshold to analyze big-budget movies, noting that "[a]nother way to view box office concentration is to look at the percent of total box office earned by $100MM+ budgeted films, which tend to heavily overweight in the 'blockbuster' category. In 2024, $100MM+ budgeted films accounted for 20% of total wide releases, close to the average of other non-pandemic years going back to 2010."[104]

(71) In addition, papers in the economic literature that have done empirical work on film demand have used a cutoff of $100 million to define big-budget films.[105] In the analysis below, I use $100 million as a threshold to define big-budget films, but also explore other thresholds to test the robustness of the results to the particular threshold used.

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[101] Robert Fishman, Justin Cooper, James Caceres, "U.S. Theaters: Winning the Rebound," MoffettNathanson, April 10, 2026, 2. Movies characterized as part of the "tentpole slate" include *The Super Mario Galaxy Movie*, *Toy Story 5*, *Spider-Man: Brand New Day*, *The Hunger Games: Sunrise on the Reaping*, and *Avengers: Doomsday*.

[102] Robert Fishman, Justin Cooper, James Caceres, "U.S. Theaters: Winning the Rebound," MoffettNathanson, April 10, 2026, 4.

[103] Doug Creutz and Mei Lun Quach, "Memo to Hollywood: Negative Feedback May Be Looping," TD Cowen, March 26, 2025, 9.

[104] Doug Creutz and Mei Lun Quach, "Memo to Hollywood: Negative Feedback May Be Looping," TD Cowen, March 26, 2025, 8. *See also* Doug Creutz and Mei Lun Quach, "'Dirty Dozen' Summer Preview - Looks Like a Disney-versal Summer," TD Cowen, May 1, 2026, 1 ("[t]here are eight films scheduled this summer that we think have $100MM+ budgets and blockbuster aspirations").

[105] Joseph Kuehn and Ryan Lampe, "Competition and Product Composition: Evidence from Hollywood," *International Journal of Industrial Organization* 91 (2023): 102981. ("There is no established definition for what constitutes a low-, medium-, or high-budget movie. We follow Schechter (2016) and define budget groupings in the following way: low-budget films have budgets less than $20 million, medium-budget films have budgets between $20 and $100 million, and high-budget films have budgets exceeding $100 million.").
Dan Schechter, "How Studios Use Blockbuster Budgets to Boost Moviegoing Attendance (Guest Blog)," *The Wrap*, March 9, 2016, https://www.thewrap.com/how-studios-use-blockbuster-budgets-boost-movie-attendance-a-look-at-production-spend-budgets/, accessed July 18, 2026. ("Nearly all of the growth has come from big-budget films, with $100 million-plus [production budgets]....").

III.B.5. Direct evidence of an exercise of market power within the market

(72) As the Merger Guidelines note, "direct evidence of the exercise of market power can demonstrate the existence of a relevant market in which that power exists."[106] In 2019, Disney acquired Fox, reducing the number of major film studios from 6 to 5, potentially providing an opportunity to observe an exercise of market power in the relevant market.

(73) In this market, an exercise of market power could occur through a reduction in writer compensation and/or a reduction in output, as I discuss in Section V below. Though I do not have data on compensation rates for particular jobs, available WGA data allow me to calculate total compensation for writing services and number of writers in the relevant market by studio for years before as well as after the merger. I can also observe output in the market by studio as measured by number of films.

(74) The available evidence indicates that Disney-Fox's output of WGA-covered anticipated top-grossing films decreased after the merger, relative to other major film studios, and was not made up for by increased output from other firms. Similarly, total writer compensation for Disney-Fox writers, the number of Disney-Fox writers, and average earnings per writer for Disney-Fox writers all decreased relative to benchmarks and also in absolute terms. A reduction in output and compensation in the market of interest is consistent with an exercise of market power.

(75) Figure 9 below shows that, relative to the other major film studios, the number of WGA-covered big-budget films produced by Disney-Fox significantly decreased from the four years prior to the merger to a comparable later four-year period.[107] Between 2015-2018 and 2022-2025, the number of releases produced by Disney-Fox declined from 31 to 20 (a 35.5% drop), while the number of releases produced by its major rival studios increased from 36 to 41 (a 13.9% increase).[108]

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[106] 2023 Merger Guidelines, 41.

[107] I omit the period 2019–2021 from the analysis since 2019 is the year of the merger, and during 2020–2021 theatrical distribution was severely impacted by the COVID outbreak.

[108] The percentage reduction is calculated the percentage change between the total numbers for the pre-merger period (2015–2018) and post-COVID period (2022–2025), i.e., (31-20)/31 ≈ 35.5% for Disney-Fox, and (41-36)/36 ≈ 13.9% for all the rival major film studios combined. This calculation excludes the years affected by the COVID outbreak, as this period saw a significant reduction in film releases for all major film studios.

Figure 9. Number of WGA-covered big-budget films released before and after the 2019 Disney-Fox merger by Disney-Fox and other major film studios

Period	Total number of films released during each period	
	Disney-Fox	Major film studios (excluding Disney-Fox)
2015–2018	31	36
2019–2021	18	15
2022–2025	20	41

Sources: Film list data.
Notes: Restricted to US domestic theatrical releases. The rival major film studios are Paramount, Sony, Universal, and WBD.

(76) For my analysis of writer earnings-related metrics, I limit the set of writers to those that were participating on at least one WGA-covered big-budget theatrically released movie within the period 2021–2024. I refer to this set of writers as "screenwriters with WGA-covered big-budget movie jobs."

(77) Figure 10 shows the total reported earnings of screenwriters with WGA-covered big-budget movie jobs by source of earnings. Earnings from Disney-Fox films declined from the pre-merger to the post-merger period, both in absolute terms and relative to earnings from other studios. [redacted]

Figure 10. Total earnings of screenwriters with WGA-covered big-budget movie jobs before and after the 2019 Disney-Fox merger

[redacted]

Sources: WGAW and WGAE screen earnings data, 2016–2018 and 2021–2025; and WGA writing jobs and production budget data from the WGAW.
Note: [redacted]

(78) Figure 11 shows the number of screenwriters that underlie the total reported earnings shown in Figure 10. The number of screenwriters working on Disney-Fox projects declined after the merger as well,

both in absolute terms and relative to writers working on projects at other studios. 154 writers worked on Disney-Fox projects in the three-year period before the merger, but only 118 did so in the three-year period after the merger (an 23% drop). In contrast, the number of writers working on projects at other studios remained virtually unchanged, around 290. The number of screenwriters working on projects at the other major film studios also remained stable around 229.

Figure 11. Number of screenwriters with WGA-covered big-budget movie jobs working on studio projects before and after the 2019 Disney-Fox merger

Period	Project home		
	Disney-Fox	Other studios (non-Disney-Fox studios combined)	Major film studios (excluding Disney-Fox)
2016–2018	154	286	228
2022–2025	118	292	229
Change	-23%	2%	0%

Sources: WGAW and WGAE screen earnings data, 2016–2018 and 2021–2025; and WGA writing jobs and production budget data from the WGAW.
Note: The 2022–2025 period includes effectively three years of earnings data, making it comparable in length to the 2016–2018 period. The second half of 2023 experienced the WGA strike, and the 2025 earnings data are available for only the first half of the year.

(79) Figure 12 combines the information from Figure 10 and Figure 11 and shows the average reported earnings per screenwriter, expressed on an annual basis.[109] It shows that average screenwriter earnings on Disney-Fox projects declined after the merger, both in absolute terms and relative to other studios. [redacted]

[109] That is, it divides the average per-writer earnings by the number of years within each period each writer worked.

[110] The drop in average annual earnings is notable given the construction of the set of screenwriters that are included in the analysis. For some screenwriters, the participation on a big-budget film in 2021–2024 may have the first such participation in their career, meaning that they lacked such participating credentials in the pre-merger period, 2016–2018.This alone would be expected to result in an increase in average earnings, all else equal (see Figure 5).

Figure 12: Average annual screen earnings by screenwriters with WGA-covered big-budget movie jobs before and after the 2019 Disney-Fox merger

[redacted]

Sources: WGAW and WGAE screen earnings data, 2016–2018 and 2021–2025; and WGA writing jobs and production budget data from WGAW.
Note: [redacted]

(80) This evidence is consistent with Disney-Fox exercising market power after their merger, and is thus consistent with a market definition consisting of writer services for WGA-covered anticipated top-grossing films.

III.B.6. Summary

(81) For the proposed market for writing services for WGA-covered anticipated top-grossing films to be too narrow to be an antitrust market, by the logic of the hypothetical monopsonist test, it would have to be true that if all producers of WGA-covered anticipated top-grossing films merged, they would have no significant additional leverage against writers for those films, due to writers' easy substitution to other jobs such as writing for smaller or non-theatrically released films, non-WGA-covered films, or TV. The significant differences in compensation and other characteristics between anticipated top-grossing films and other types of output produced by WGA writers, as well as evidence of the market impact of the Disney-Fox merger, as discussed in this section, indicate that such easy substitution is unlikely to occur.

III.C. Relevant geographic market

(82) The appropriate relevant geographic market for assessing the competitive effects of the transaction in the market for writing services for WGA-covered anticipated top-grossing films is the United States. The WGA is headquartered in the United States,[111] its membership is primarily based in the United

[111] Writers Guild of America East, *Labor Organization Annual Report (Form LM-2)*, 2026, Schedule 8; Writers Guild of America West, *Labor Organization Annual Report (Form LM-2)*, 2026, Schedule 8. *See also* "Writers Guild of America Fast Facts," CNN, January 26, 2023, https://www.cnn.com/2013/08/26/us/writers-guild-of-america-fast-facts.

States,[112] most MBA-signatory studios are headquartered in the United States,[113] and writing service purchases typically occur in the United States in US dollars on WGA-covered films set for US release.[114] Other countries generally have their own writing guilds with distinct contracts and legal regulations. [115]

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112 Constitution and Bylaws of the Writers Guild of America, West, Inc., 8 (May 3, 2016), https://www.wga.org/uploadedFiles/members/constitution_2016.pdf (treating US residency as the default).

113 *See*, *e.g.,* The Walt Disney Company, *Form 8-K*, February 27, 2026, 1, https://www.sec.gov/Archives/edgar/data/1744489/000119312526088356/d116769d8k.htm (listing Burbank, CA as principal executive office); Comcast Rule 424(b)(2) Prospectus Supplement at S-2 (July 29, 2022), https://www.sec.gov/Archives/edgar/data/902739/000119312522275045/d400407d424b2.htm (listing New York, NY as NBCUniversal's principal executive office); Paramount Skydance Corp. Form 8-K at 1 (June 22, 2026), https://www.sec.gov/Archives/edgar/data/2041610/000110465926075961/tm2610616d5_8k.htm (listing New York, NY as principal executive office); Warner Bros. Discovery, Inc. Form 8-K at 1 (June 9, 2026), https://d18rn0p25nwr6d.cloudfront.net/CIK-0001437107/7d1f69fe-e5f2-489a-866c-11528e623ac6.pdf (listing New York, NY as principal executive office); Sony Group Corporation Form 6-K (Mar. 2026), https://www.sec.gov/Archives/edgar/data/313838/000110465926022607/tm267716d1_6k.htm (listing California as the location of Sony Pictures Entertainment Inc.'s headquarters).

114 *See also* Stephen Galloway, "Test Screenings," *The Hollywood Reporter,* July 25, 2006, https://www.hollywoodreporter.com/business/business-news/test-screenings-138436/ (describing screen testing in Los Angeles, Las Vegas, and Arizona).

115 *See*, *e.g.*, The Writers' Guild of Great Britain, accessed July 18, 2026, https://writersguild.org.uk/; Writers Guild of Canada, accessed July 18, 2026, https://www.wgc.ca/.

IV. Market shares in the relevant market

(83) Market shares and market concentration are routinely calculated as part of the antitrust analysis of likely merger effects.[116] Among other things, market shares can provide information about likely pre- and post-merger degrees of market power, about the ability of other firms in the market to constrain any post-merger exercise of market power by the merged firm, and about the closeness of competition of the merging parties. The federal antitrust agencies use industry concentration derived from market shares, as measured by the Herfindahl-Hirschman Index ("HHI") to define thresholds of likely competitive concerns from mergers.[117]

(84) Market shares are often calculated based on historical revenues in the market but are also commonly calculated based on other measures such as capacity or units, depending on the circumstance and the availability of data.[118] In this matter, it is difficult to calculate market shares based on writer earnings, so as alternative more feasible measures I calculate shares based on number of WGA participating writer jobs as well as film production budget, which should be correlated with total expenditures on writing.[119]

(85) To define the set of "anticipated top-grossing films," I use a cutoff of an $100 million production budget, as explained in Section III.B.1 above. I also explore the sensitivity of market shares to alternative cutoffs of a $50 million budget and a $150 million budget. Results are similar across all three thresholds.

(86) Figure 13 shows market shares by number of writer jobs, first for the 2021–2024 period and then for the more recent 2023–2024 period. Figure 14 below shows market shares by production budget over the same time periods. In each case, "anticipated top-grossing films" is defined as those that are theatrically released and have a $100 million or greater production budget.

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[116] *See*, *e.g.*, Massimo Motta, *Competition Policy: Theory and Practice* (New York: Cambridge University Press, 2004), 117 ("The typical procedure followed by anti-trust authorities all over the world is to first define the relevant market and then assess market power in that market. In this second step, the analysis rotates around the measurement of market shares held by the firm (or firms).").

[117] *See* 2023 Merger Guidelines, 5 ("The Agencies generally measure concentration levels using the Herfindahl-Hirschman Index ("HHI"). The HHI is defined as the sum of the squares of the market shares; it is small when there are many small firms and grows larger as the market becomes more concentrated, reaching 10,000 in a market with a single firm. Markets with an HHI greater than 1,800 are highly concentrated, and a change of more than 100 points is a significant increase.").

[118] *See* 2023 Merger Guidelines, 50 ("How market shares are calculated may further depend on the characteristics of a particular market, and on the availability of data. … Revenues in a relevant market often provide a readily available basis on which to compute shares … Unit sales may provide a useful measure of competitive significance … Measures based on capacities or reserves may be used to calculate market shares … Non-price indicators, such as number of users or frequency of use, may be useful indicators in markets where price forms a relatively small or no part of the exchange of value.").

[119] It is difficult to tie earnings to specific works, as members may write for films under code names before a film is announced.

Figure 13. Writing jobs-based shares for WGA-covered anticipated top-grossing films by all studios

Entity	Writing job shares (2021–2024)	Writing job shares (2023–2024)
WBD	**27%**	**29%**
Paramount	**7%**	**12%**
Merged entity (WBD + Paramount)	**35%**	**41%**
Disney	25%	19%
Sony	14%	14%
Lionsgate	7%	6%
Universal	6%	5%
Legendary	6%	5%
Amazon	3%	2%
Millennium	2%	4%
Apple	2%	3%
Marv Studios	0.2%	0.4%
Pre-merger HHI	**1,765**	**1,661**
Post-merger HHI	**2,172**	**2,349**
Delta HHI	**408**	**688**

Source: WGA writing jobs and production budget data from the WGAW.
Notes: Limited to theatrically released films with production budgets of $100 million and above.

Figure 14. Production budget-based shares for WGA-covered anticipated top-grossing films by all studios

Entity	Production budget shares (2021–2024)	Production budget shares (2023–2024)
WBD	**20%**	**20%**
Paramount	**10%**	**15%**
Merged entity (WBD + Paramount)	**30%**	**35%**
Disney	33%	24%
Universal	11%	12%
Sony	7%	6%
Legendary	5%	4%
Amazon	4%	3%
Apple	4%	7%
Lionsgate	3%	4%
Marv Studios	2%	3%
Millennium	1%	1%
Pre-merger HHI	**1,840**	**1,475**
Post-merger HHI	**2,249**	**2,077**
Delta HHI	**409**	**602**

Source: WGA writing jobs and production budget data from the WGAW
Notes: Limited to theatrically released films with production budgets of $100 million and above.

(87) The post-merger market shares and HHIs presented in Figure 13 and Figure 14 place the market in the category defined by the Merger Guidelines as "highly concentrated" post-merger with a "significant increase" in concentration.[120] According to the Guidelines, "a merger that creates or further consolidates a highly concentrated market that involves an increase in the HHI of more than 100 points is presumed to substantially lessen competition or tend to create a monopoly."[121]

(88) Results are similar when the threshold for an "anticipated top-grossing film" is set at a $50 million production budget. Figure 15 and Figure 16 below are comparable to Figure 13 and Figure 14, respectively, but use a threshold of $50 million dollar production budget instead of $100 million.

[120] *See* 2023 Merger Guidelines, 5 ("Markets with an HHI greater than 1,800 are highly concentrated, and a change of more than 100 points is a significant increase.").

[121] *See* 2023 Merger Guidelines, 6. According to the Guidelines, that presumption holds when the change in HHI due to the merger is greater than 100, and either the post-merger HHI is 1800 or the merged firm's share is greater than 30%. Both conditions hold here.

Figure 15. Writing jobs-based shares for WGA-covered anticipated top-grossing films by all studios, $50 million threshold

Entity	Writing job shares (2021–2024)	Writing job shares (2023–2024)
WBD	**25%**	**24%**
Paramount	**14%**	**13%**
Merged entity (WBD + Paramount)	**40%**	**37%**
Disney	19%	17%
Sony	14%	16%
Universal	8%	9%
Lionsgate	5%	5%
Legendary	4%	4%
Amazon	4%	3%
Millennium	2%	3%
Apple	1%	2%
Postmaster Productions	1%	1%
Yellow Flower	1%	1%
Black Label	0.4%	
Moto Pictures	0.4%	1%
Solstice Studios	0.3%	1%
Lodigiano Film Development	0.3%	1%
30West	0.3%	
Fremantle	0.1%	0.3%
Marv Studios	0.1%	0.3%
A24	0.1%	0.3%
Pre-merger HHI	**1,546**	**1,409**
Post-merger HHI	**2,274**	**2,020**
Delta HHI	**728**	**611**

Source: WGA writing jobs and production budget data from the WGAW.
Notes: Limited to theatrically released films with production budgets of $50 million and above.

Figure 16. Production budget-based shares for WGA-covered anticipated top-grossing films by all studios, $50 million threshold

Entity	Production budget shares (2021–2024)	Production budget shares (2023–2024)
WBD	**19%**	**17%**
Paramount	**12%**	**14%**
Merged entity (WBD + Paramount)	**30%**	**31%**
Disney	29%	23%
Universal	11%	11%
Sony	9%	8%
Amazon	5%	4%
Legendary	4%	4%
Apple	3%	6%
Lionsgate	3%	4%
Marv Studios	1%	2%
Millennium	1%	1%
Moto Pictures	1%	1%
Black Label	1%	
Solstice Studios	0.4%	1%
Postmaster Productions	0.4%	1%
30West	0.3%	
Lodigiano Film Development	0.3%	1%
A24	0.3%	1%
Yellow Flower	0.3%	1%
Fremantle	0.3%	1%
Pre-merger HHI	**1,611**	**1,319**
Post-merger HHI	**2,050**	**1,806**
Delta HHI	**438**	**487**

Source: WGA writing jobs and production budget data from the WGAW.
Notes: Limited to theatrically released films with production budgets of $50 million and above.

(89) Once again, in all four cases the merger exceeds the Merger Guidelines' threshold of one that is "presumed to substantially lessen competition or tend to create a monopoly."

(90) Figure 17 and Figure 18 below show these results when using a higher, $150 million production budget threshold. Results are similar, though pre- and post-merger market concentration is significantly higher under this higher threshold.

Figure 17. Writing jobs-based shares for WGA-covered anticipated top-grossing films by all studios, $150 million threshold

Entity	Writing job shares (2021–2024)	Writing job shares (2023–2024)
WBD	**33%**	**25%**
Paramount	**8%**	**15%**
Merged entity (WBD + Paramount)	**41%**	**40%**
Disney	34%	41%
Universal	9%	6%
Legendary	8%	4%
Amazon	5%	5%
Apple	2%	4%
Sony	1%	
Marv Studios	0.3%	1%
Pre-merger HHI	**2,482**	**2,609**
Post-merger HHI	**3,029**	**3,351**
Delta HHI	**547**	**742**

Source: WGA writing jobs and production budget data from the WGAW.
Notes: Limited to theatrically released films with production budgets of $150 million and above.

Figure 18. Production budget-based shares for WGA-covered anticipated top-grossing films by all studios, $150 million threshold

Entity	Production budget shares (2021–2024)	Production budget shares (2023–2024)
WBD	**19%**	**13%**
Paramount	**11%**	**19%**
Merged entity (WBD + Paramount)	**30%**	**31%**
Disney	39%	36%
Universal	11%	10%
Legendary	6%	4%
Amazon	5%	5%
Apple	4%	8%
Sony	2%	
Marv Studios	2%	4%
Pre-merger HHI	**2,225**	**2,077**
Post-merger HHI	**2,648**	**2,544**
Delta HHI	**423**	**467**

Source: WGA writing jobs and production budget data from the WGAW.
Notes: Limited to theatrically released films with production budgets of $150 million and above.

(91) To summarize the results in this section: under two different measures of market share, two different time periods, and three different thresholds for "anticipated top-grossing film," the merger's impact on market concentration uniformly places the merger in the Merger Guidelines' category of one that is "presumed to substantially lessen competition or tend to create a monopoly."

V. Competitive impact of the merger

(92) Generally, mergers between two major competitors in a well-defined product market will, absent efficiencies, tend to worsen terms for the merged firm's trading partners.[122] In the case of a sale of a product, this can mean higher prices for consumers, lower output, reduced variety of products, and/or less innovation.[123] In the case of a purchase of a product, these same harms can apply, though an exercise of monopsony power means that prices move *lower* rather than higher – that is, in this case, reduced compensation for writing services.

(93) In horizontal merger cases, antitrust economists generally classify harm into two categories: "unilateral effects" and "coordinated effects."[124] Unilateral effects refers to the ability of the newly merged firm to exercise monopsony power due to the loss of head-to-head competition between the merging parties.[125] Coordinated effects refers to the increased ability of firms in the market to exercise monopsony power collectively through tacit or explicit collusion after the merger.[126] Both types of harm are possible when a merger combines substantial competitors in the market and leaves the market with a small number of remaining substantial competitors. My focus in this declaration is on potential unilateral effects from the proposed merger, though harm can also come through coordinated effects.

(94) This proposed merger reduces from five to four the number of competitors in the relevant market of studios that have both a high share of the market and are vertically integrated across film production

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[122] *See*, *e.g.*, Massimo Motta, *Competition Policy: Theory and Practice* (New York: Cambridge University Press, 2004), 233 ("This section focuses on the unilateral effects of a merger. It first shows that a merger is likely to increase the market power of the merging firms and decrease both consumer surplus and total welfare (Section 5.2.1). It then emphasizes (Section 5.2.3) that if the merger increases efficiency in the merging firms, the net effect on welfare of the merger is ambiguous, as the rise in market power can be outweighed by the price decrease possibly brought about by efficiency gains.").

[123] *See*, *e.g.*, 2023 Merger Guidelines, 1 ("Competition is a process of rivalry that incentivizes businesses to offer lower prices, improve wages and working conditions, enhance quality and resiliency, innovate, and expand choice, among many other benefits. Mergers that substantially lessen competition or tend to create a monopoly increase, extend, or entrench market power and deprive the public of these benefits.").

[124] *See*, *e.g.*, Massimo Motta, *Competition Policy: Theory and Practice* (New York: Cambridge University Press, 2004), 231 ("There are two main cases which should be considered when studying the effects of mergers. First (Section 5.2), the case where the merger might allow the merged firm to unilaterally exercise market power and raise prices. Second (Section 5.3), the case where a merger might favour collusion in the industry.").

[125] *See*, *e.g.*, 2023 Merger Guidelines, 6 ("The competitive harm from the elimination of competition between the merging firms, without considering the risk of coordination, is sometimes referred to as unilateral effects.").

[126] *See*, *e.g.*, Massimo Motta, *Competition Policy: Theory and Practice* (New York: Cambridge University Press, 2004), 231 ("There are two main cases which should be considered when studying the effects of mergers. First (Section 5.2), the case where the merger might allow the merged firm to unilaterally exercise market power and raise prices. Second (Section 5.3), the case where a merger might favour collusion in the industry. Here, the merging firm would not be able to unilaterally raise prices in a significant way, but the merger could generate new industry conditions which enhance the scope for collusion. Prices could then increase as firms are more likely to attain a (tacitly or explicitly) collusive outcome.").

and distribution.[127] Paramount and WBD's ability to distribute films through their own linear TV and streaming channels may also be a differentiator when companies are contracting for writing services for anticipated top grossing films.

(95) Unilateral effects in this merger can occur through different mechanisms, depending on the type of competition at issue. As discussed in Section II.C above, studios compete for writers' services primarily through two avenues: contracting for writing services on existing IP and scripts, and bidding for new scripts and ideas. The economics of these mechanisms are somewhat different, but in each case, economic principles predict that the loss of one of a small number of large competitors would reduce writers' compensation. In addition, the economics of big-budget film distribution predicts a reduction in output by the merged firms after the merger, akin to what occurred after the merger of Disney and Fox.

V.A. Effects of reduction in competition for writer services

(96) As discussed above, WBD and Paramount compete for WGA writers' services in the relevant market by offering contracts for particular script services, such as first drafts, rewrites, or polishes, generally

[127] See discussion in Section II. I am aware that Amazon recently announced plans to increase its presence in theatrical films by making 15 films per year. *See* Matt Donnelly, "Amazon MGM Makes Blood Oath to Theater Owners of 15 Movies Per Year: 'Project Hail Mary' Was 'Just the Beginning'," *Variety*, April 16, 2026, https://variety.com/2026/film/news/amazon-mgm-cinemacon-theaterical-movie-promise-1236723209/. Amazon's track record indicates that there are significant risks with relying on its stated plans. Even though Amazon initially promised to carry out the planned worldwide theatrical release of Ron Howard's Thirteen Lives (that it acquired in its 2022 acquisition of MGM), it later reversed its position and released the movie on its streaming platform after only a week-long and geographically limited theatrical release. *See* Zack Sharf, "Viggo Mortensen Calls Amazon 'Appalling' and 'Shameful' for Dumping His 2022 Ron Howard Film on Streaming, Says Film Criticism Is 'Pretty Poor' These Days," *Variety*, July 17, 2024, https://variety.com/2024/film/news/viggo-mortensen-slams-amazon-thirteen-lives-streaming-shameful-1236073837/. Amazon has said since late 2022 that it plans to spend $1 billion per year on theatrical film releases to fund between 12 and 15 films each year. *See* Annie Palmer and Sarah Whitten, "Movie theater stocks pop after report says Amazon plans to spend $1 billion on releases," *CNBC*, November 23, 2022, https://www.cnbc.com/2022/11/23/amazon-to-spend-1-billion-on-theatrical-releases-boosting-cinema-stocks.html. However, it theatrically released four films in 2023, five in 2024, and four in 2025, a significant shortfall relative to its initial statement (*see* my backup materials). Third-party estimates indicate that only one of the 13 films released in 2023–2025 had a production budget greater than $100 million (*see* my backup materials). Although Amazon claimed in April 2026 that its "commitment to release at least 15 films every year into your theaters is on schedule," available information indicates that it may hit about half of that number for 2026. *See* Matt Donnelly, "Amazon MGM Makes Blood Oath to Theater Owners of 15 Movies Per Year: 'Project Hail Mary' Was 'Just the Beginning'," *Variety*, April 16, 2026, https://variety.com/2026/film/news/amazon-mgm-cinemacon-theaterical-movie-promise-1236723209/; *See also* "Amazon aims to release 14 films in theaters in 2026," *Amazon,* accessed July 21, 2026, https://www.aboutamazon.com/news/entertainment/amazon-movies-cinemacon. In the past six months, it released four original wide release films (*Project Hail Mary*, *Mercy*, *Masters of the Universe*, *The Sheep Detectives*), with three more slated for the rest of 2026 (*How to Rob a Bank* (September 4, 2026), *Verity* (October 2, 2026), *I Play Rocky* (November 20, 2026)). *See* "Amazon MGM Studios unveils its ambitious theatrical slate for 2026 and beyond at CinemaCon," *Amazon,* accessed July 21, 2026, https://www.aboutamazon.com/news/entertainment/amazon-mgm-studios-films. Fundamentally, though, even if Amazon follows through on its plans to increase its theatrical output, and even if at some point is considered an additional "major film studio," that does not undo the loss of competition that would occur after the merger of Paramount and WBD. After all, there were six major studios at the time of the Disney-Fox merger, and that did not prevent that merger from having a substantial market impact, as I discussed in Section III.B.5.

well above WGA minimums. The terms of these contracts are the result of a bargaining process between the writer and/or their representative and the hiring studio.[128]

(97) Economists generally model bargaining outcomes as a function of the total "surplus" to be divided – the benefits of reaching agreement – relative to each side's "threat point," or best alternative if the bargaining process breaks down.[129] A straightforward result of these models is that if one side's threat point becomes less attractive to it, all else equal, its bargaining returns will go down while the opposing party's returns will go up.[130] A merger removes a possible alternative for one side in the negotiation, and thus worsens their bargaining position by worsening their threat point. The effect is greater the more likely the merging parties are to be close alternatives for their trading partners.[131]

(98) After the merger of WBD and Paramount, writers will have one less outside option, or potential "threat point" in bargaining with the merged firm. There will be three instead of four alternatives among major film studios, and two instead of three that are integrated into streaming and TV distribution. Straightforwardly, and intuitively, this will worsen the bargaining position of writers in such negotiations, leading to lower compensation and/or worsening of other terms of employment.

V.B. Effects of reduction in bidding for writing work

(99) Another way in which studios compete for writers' services is by bidding for scripts that they have not commissioned, so-called "spec" scripts or scripts written "on spec," or for ideas or concepts for a movie even before a script is completely written.[132] This type of competition occurs less frequently

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[128] *See*, *e.g.*, WGAW Interrogatory Responses to Specification 5, 1 [redacted] Schur Decl., ¶ 10 ("This created genuine competition among buyers, which shaped compensation and greenlight decisions. When multiple studios or networks compete for a project or a writer's services, that competition ensures fair compensation, improved backend terms, and increases the writer's leverage over creative conditions. The writer's representatives can credibly signal that other buyers are interested, and buyers respond by improving their offers.").

[129] *See*, *e.g.*, Amit Gandhi and Aviv Nevo, "Empirical models of demand and supply in differentiated products industries," chapter 2 in Handbook of Industrial Organization, vol. 4, Kate Ho, Ali Hortacsu, and Alessandro Lizzeri eds. (North-Holland: Elsevier, 2021), 115 ("The Nash bargaining solution is the set of input prices that maximize the weighted product of the values to both parties from agreement (as a function of that price) relative to the values without agreement."). *See* also Howard Raiffa, *The Art and Science of Negotiation* (Cambridge, MA: Harvard University Press, 1982), 46; Martin J. Osborne and Ariel Rubinstein, *Bargaining and Markets* (Cambridge, MA: Academic Press, Inc., 1990), 3.

[130] *See*, *e.g.*, Martin J. Osborne and Ariel Rubinstein, *Bargaining and Markets* (Cambridge, MA: Academic Press, Inc., 1990), 13, 49; Abhinay Muthoo, *Bargaining Theory with Applications* (Cambridge: Cambridge University Press: 1999), 103.

[131] *See*, *e.g.*, 2023 Merger Guidelines, 37–38 ("Sellers may compete even when a customer does not directly play their offers against each other. The attractiveness of alternative options influences the importance of reaching an agreement to the negotiating parties and thus the terms of the agreement. A party that has many attractive alternative trading partners places less importance on reaching an agreement with any one particular trading partner than a party with few attractive alternatives. As alternatives for one party are eliminated (such as through a merger), the trading partner gains additional bargaining leverage reflecting that loss of competition.").

[132] Koepp Decl., ¶¶ 5–6; *See* Interrogatory Responses to Specification 5, 4 [redacted]

than negotiations for particular script services, but can be lucrative for writers.[133] For example, as mentioned above, WBD recently came out on top of a bidding war with the other four major film studios for the rights to develop *Siren Head*, an artist's creation that came with serious writing and directing talent attached.[134]

(100) These sorts of bidding events are conceptualized by economists as auctions, with the ultimate price of the auction being a function of the number and variety of bidders.[135] A standard result across a variety of auction settings and formats is that a reduction in the number of bidders tends to reduce the final price.[136] The implication in a merger context is that a merger of substantial competitors in a market will generally worsen the results of an auction. This merger will reduce by one the number of substantial potential bidders for writers' work. Economics would thus predict lower payments to writers for these sorts of bidding episodes after the merger.

V.C. Output effects

(101) As discussed in Section III.B.5 above, one noticeable impact of the Disney-Fox merger, which combined two of six major theatrical release studios at the time, was a significant reduction in the number of big-budget films produced by the merged firm relative to the pre-merger period. This outcome was predictable. Theatrical releases generally compete with one another downstream, and a limited number of favored release times, such as during holiday periods or in the early summer, draw broader audiences and are thus a particular focus of anticipated top-grossing films.[137] When top-grossing films are released close in time to one another, they tend to steal audience from one

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[redacted] David Trottier, *The Screenwriter's Bible*, 6th ed. (Los Angeles: Silman-James Press, 2014), 143 ("The spec script is the selling script. You write it with the idea of selling it later or circulating it as a sample. Once it is sold and goes into preproduction, it will be transformed into a shooting script, also known as the production draft."). *See also* Ben Fritz, "Hollywood's Horror-Meme Gold Rush Is Minting Millionaires," *Wall Street Journal*, July 10, 2026, https://www.wsj.com/business/media/hollywoods-horror-meme-gold-rush-is-minting-millionaires-fe5fb799 (Discussing studio bidding for movie concepts as in the case of *Siren Head*).

133 Koepp Decl., ¶¶ 5–8; McKay Decl., ¶¶ 8–10.

134 Borys Kit, "'Siren Head' Horror Movie, Based on Internet Sensation, in the Works with Zach Cregger, Brian Duffield," *The Hollywood Reporter*, July 1, 2026, https://www.hollywoodreporter.com/movies/movie-news/siren-head-horror-zach-cregger-brian-duffield-1236634292/ ("The rights deal alone is said to be in the low seven figures and the auction brought out all the big studios, including Sony, Universal, Paramount, and Disney's 20th Century Studios, which is behind Duffield's Whalefall. A theatrical release was key in the deal, which excluded the involvement of the big streamers."); Matt Grobar, "Warner Bros. Sets 'Siren Head' Movie; Brian Duffield to Direct from Script Penned with Zach Cregger," *Deadline*, July 1, 2026, https://deadline.com/2026/07/siren-head-movie-warmer-bros-brian-duffield-directing-1236972398/.

135 In general, an auction is characterized by simultaneous consideration of multiple offers. It can take a variety of formats that extend well beyond the well-known ascending English auction and first-price sealed bid auction. *See*, *e.g.*, Timothy P. Hubbard and Harry J. Paarsch, *Auctions* (Cambridge, MA: MIT Press, 2015), 4–6.

136 *See*, *e.g.*, Vijay Krishna, *Auction Theory*, 2nd ed. (Cambridge, MA: Academic Press, 2009), 19.

137 *See*, *e.g.*, Liran Einav, "Seasonality in the U.S. Motion Picture Industry," *RAND Journal of Economics*, 38, no. 1 (2007): 128 ("Movie distributors tend to release their (*ex ante*) biggest hits in the beginning of the summer and during the Christmas holiday season, and the choice set of moviegoers varies dramatically over the year.").

another, particularly if the movies attract a similar audience. This is one reason why studios study release times of movies marketed by other studios carefully when planning their own releases.[138]

(102) When two unaffiliated studios release films that overlap in their theater release window, neither of them accounts for the fact that its film draws viewers from the other studio's film.[139] An incremental viewer of one studio's film is a net benefit for that studio. In contrast, when two formerly unaffiliated studios merge, the combined entity internalizes any "cannibalization" that occurs between its films. An incremental viewer of one film is not a benefit from the perspective of the combined entity if that viewer is drawn from the other film because the combined entity is gaining and losing revenue to an equal degree. This cannibalization effect reduces the downstream returns to releasing films, all else equal, and would be expected to reduce the number of films released by the merged firm in the limited number of favored release times.[140] In the case of Disney-Fox, the reduction in output by the merged firm was not ameliorated by an increase in output by other major film studios.[141]

(103) The upstream impact of reducing the number of anticipated top-grossing films produced is to reduce the number of screenwriting jobs available, which would be expected to reduce compensation for WGA writers.

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[138] *See*, *e.g.*, Liran Einav, "Seasonality in the U.S. Motion Picture Industry," *RAND Journal of Economics*, 38, no. 1 (2007): 127 ("The number of Americans who go to the movies varies dramatically over the course of the year and sometimes more than doubles within a period of two weeks. At the same time, the first week accounts for almost 40% of the box-office revenues of the average picture. As a result, the release date of a new picture is a major focus of attention for distributors of movies.").

[139] Rival studios sometimes release films with similar plots within weeks of each other (Bob Mondello, "Seeing Double: Near-Identical Films That Came Out at the Same Time," NPR, July 26, 2022, https://www.npr.org/2022/07/26/1113195221/seeing-double-near-identical-films-that-came-out-at-the-same-time). For instance, both Disney and Universal released live-action adaptations of *Snow White* in 2012, with Universal's director recalling "pressure for his project to beat Universal's movie to the punch." (Ryan Gajewski, "Hollywood Flashback: The Year of the Dueling Snow Whites," *The Hollywood Reporter*, March 22, 2025, https://www.hollywoodreporter.com/movies/movie-news/hollywoods-dueling-snow-whites-mirror-mirror-huntsman-1236166746/).

[140] This basic economic point is corroborated by screenwriter and director David Koepp. *See* Koepp Decl., ¶ 23 ("One of the genuine pleasures and economic engines of this industry has been the phenomenon of dueling productions, two studios independently developing similar concepts, each racing to execute its version better and faster. ... This competition is unambiguously good for writers, directors, crews, and audiences: they generate more work, better compensation, greater creative output. These competitive situations can occur when one studio hears of another's project on a topic they are already producing and expedite their greenlight and production process in an effort to get their own project out to audiences first. A merged Paramount-Warner Bros. entity would have no financial incentive to sustain two competing versions of overlapping projects. It would simply kill one. The creative and economic value that competition generates would be lost, and it would be lost permanently.").

[141] *See* discussion in Section III.B.5.

	July 21, 2026
Eric Emch, PhD	Date

Appendix A. Curriculum vitae of Eric Emch, PhD

A.1. Summary of experience

Dr. Eric Emch has more than two decades of experience in economic analysis of competition policy issues, including the competitive effects of horizontal and vertical mergers, single-firm conduct, market definition and market power, and collusion. His recent work has included analysis of competition issues relating to digital platforms, analysis of competition in telecom markets, evaluation of royalties for licensing music for streaming, and analysis of the competitive impact of mergers in a wide variety of industries. He is currently Vice Chair of the Intellectual Property Committee of the American Bar Association.

Dr. Emch joined Bates White from the Antitrust Division of the US Department of Justice (DOJ), where he served as Staff Economist and, later, Assistant Chief of the Competition Policy Section. As Assistant Chief, Dr. Emch led teams of economists in economic analyses of merger, monopolization, and collusion matters in a wide variety of industries. While on leave from DOJ from 2007 to 2008, Dr. Emch led the Organisation for Economic Co-operation and Development's Regional Competition Center in Seoul, Korea, where he designed, organized, and conducted competition policy workshops for staffers of national competition authorities across Asia.

Dr. Emch has published in journals such as the Journal of Industrial Economics, Review of Industrial Organization, Review of Network Economics, and Antitrust Law Journal on a number of antitrust-related topics, including aftermarket economics, market definition, and antitrust theories of harm. As an adjunct professor, he has taught Industrial Organization at Georgetown University and econometrics in Johns Hopkins University's Master's of Applied Economics Program. He has been named to Lexology's (formerly Who's Who Legal) list of top Competition Economists since 2014 and has been recognized as a Competition Thought Leader by that publication since 2021.

A.2. Education

- PhD, Economics, University of California at Berkeley
- AB, Economics and History, Brown University

A.3. Professional experience

- Bates White Economic Consulting
  - Partner, January 2014–present
  - Principal, April 2011–January 2014
- Adjunct Professor, Georgetown University, Fall 2024
- Research Economist, DOJ Antitrust Division, January 2009–April 2011
- Adjunct Professor, Johns Hopkins University, Fall 2010–Fall 2011
- Senior Economist, OECD Competition Division, Paris, France, September 2007–December 2008
- Assistant Chief, DOJ Antitrust Division Competition Policy Section, August 2004–August 2007
- Economist, DOJ Antitrust Division, October 1999–August 2004

A.4. Select Bates White experience

A.4.a. Antitrust litigation

- Submitted an expert report and provided deposition and trial testimony on behalf of American Express in *Anthony Oliver, et al. v. American Express Company et al*., analyzing market definition, market power, and competitive effects issues related to certain non-discrimination provisions in American Express's acceptance agreements with merchants.
- Led the team supporting the testifying expert's analysis on issues of market definition, market power, and competitive effects of Google's conduct in the Android app distribution market, on behalf of Epic Games in *Epic Games Inc. v. Google LLC et al*.
- Supported testifying expert on behalf of the DOJ In *United States et al. v. Google*, a lawsuit alleging that Google unlawfully monopolized or attempted to monopolize markets involving digital advertising technologies.
- Submitted an expert report and provided deposition testimony on behalf of a plaintiff investor class in *Plymouth County Retirement System, et al. v. Patterson Companies, Inc., et al.* Report analyzed possible collusion between the defendant and its two primary competitors to fix dental supply prices by boycotting group purchasing organizations and analyzed whether the economic evidence was consistent with the defendants' participation in a collusive agreement.
- Analyzed antitrust issues related to pharmaceutical product hopping and submitted expert and rebuttal reports in support of plaintiff states in *State of Wisconsin et al. v. Indivior Inc. et al.*

A.4.b. Mergers

- Submitted an expert report and provided deposition testimony on behalf of the Federal Trade Commission in *In re Axon Enterprise, Inc., a Corporation*. The report analyzed market definition competitive effects, and possible efficiencies relating to Axon's purchase of VieVu—both manufacturers of body-worn cameras used by police departments.
- Retained by DOJ's Antitrust Division to produce an expert report and serve as an expert witness for a proposed merger of firms involved in the marketing of college sports. Analyzed market definition and potential competitive effects of the merger.
- Prepared economic analysis and expert report on behalf of the Canadian Competition Bureau in support of its review of the acquisition of Manitoba Telecom Services, Inc., by BCE Inc.
- Led the team supporting the expert on behalf of DOJ in its successful challenge of the proposed $34.6 billion merger of Halliburton and Baker Hughes.
- Led the team providing analysis and expert support for DOJ in analyzing the proposed merger of silicon metal producers FerroAtlantico and Globe Specialty Metals. Analyzed the competitive effects of the proposed transaction and supported preparation of expert testimony in the event of a merger challenge.
- Led a team assessing the potential competitive effects of AT&T's proposed $48 billion acquisition of DirecTV during an extended review of the transaction by the DOJ and Federal Communications Commission. Analyzed competition and complementarities among broadband Internet and video programming services on behalf of AT&T. The merger was ultimately approved by both agencies.
- On behalf of Constellation Brands, analyzed the competitive effects of Anheuser-Busch InBev and Grupo Modelo's proposed divestiture of brewery and distribution assets to Constellation in response to concerns about their proposed merger. Coauthored a white paper positing that the proposed divestiture resolved the concerns initially raised and would likely improve competition relative to the status quo. The Department of Justice ultimately approved the merger, subject to the proposed divestiture package.
- Retained by DOJ's Antitrust Division to produce an expert report and serve as an expert witness for a proposed merger in the publishing industry. Analyzed competition between the merging firms, product and geographic market definition, potential unilateral and coordinated effects avenues of merger harm, and effects on final consumers.
- Retained by DOJ's Antitrust Division to produce an expert report and serve as an expert witness for a proposed merger in the energy services industry. Merger was eventually approved after parties proposed a divestiture package resolving potential competitive concerns.

A.4.c. Regulatory proceedings

- Analyzed Canadian wireline internet competition and regulatory access policies in a report submitted on behalf of Cogeco Communications in *In the matter of Telecom Notice of Consultation CRTC 2024-292*, Canadian Radio-television and Telecommunications Commission, December 12, 2024.
- Analyzed Canadian wireless telephony competition and possible changes to the relevant regulatory framework in multiple expert reports submitted on behalf of Shaw Communications in *In the matter of Telecom Notice of Consultation CRTC 2019-57*, Canadian Radio-television and Telecommunications Commission.
- Analyzed Canadian wireless telephony competition and wholesale roaming access policies in multiple expert reports submitted on behalf of Shaw Communications in *In the matter of Telecom Notice of Consultation CRTC 2017-259*, Canadian Radio-television and Telecommunications Commission.
- In *In re Determination of Rates and Terms for Making and Distributing Phonorecords (Phonorecords IV)*, led a team supporting the expert in preparing testimony on behalf of Amazon regarding the economics of royalty payments under Section 115 of the Copyright Act.
- In *In re Determination of Rates and Terms for Making and Distributing Phonorecords (Phonorecords III)*, led a team supporting the expert in preparing testimony on behalf of Spotify USA Inc. regarding the economics of royalty payments under Section 115 of the Copyright Act.

A.4.d. International matters

- On behalf of the World Bank and Kuwait competition authority, drafted new merger control regulations and merger enforcement guidelines and presented them to Kuwaiti authorities.
- On behalf of the World Bank and the Peruvian government, analyzed competitive concerns in the Peruvian payment card market and helped draft a written report analyzing the market and remedial options.
- Retained by the OECD to develop and lead four workshops for staff of Asian antitrust authorities: (1) a workshop on “Cartel Fundamentals” for ASEAN member countries in Bangkok, Thailand, in September 2014; (2) a workshop on monopolization and abuse of dominance in Jeju, Korea, in June 2014; (3) a workshop on “Legitimate Business Practices or Cartels in Disguise?” in Hanoi, Vietnam, in October 2011; and (4) a workshop on monopolization and abuse of dominance in Busan, Korea, in December 2011. Participants included staff from the competition authorities of China, India, Indonesia, the Philippines, Pakistan, Vietnam, Singapore, Myanmar, Malaysia, and Mongolia, among others.

- Retained by the OECD to develop and lead workshops on pricing-related abuse of dominance and exclusionary practices for staff members of Eastern European competition authorities in Budapest, Hungary in December 2012 and March 2013.

A.4.e. Selected Department of Justice experience

- Led teams of economists evaluating economic theory and empirical evidence for cases in the transportation, energy, and payment cards sectors.
- Oversaw the analysis of effects on electricity prices from the merger of two large suppliers on the same regional interchange. Work included detailed merger simulation and analysis of the effects of long-term contracting on supply, and an analysis of how potential divestitures would affect post-merger pricing.
- Examined potential exclusionary conduct in payment cards markets, including theoretical modeling of potential anticompetitive effects.
- Provided support to Antitrust Division expert and trial team in *United States v. Visa USA*.
- Led economics teams in defining and analyzing possible non-horizontal effects of mergers in several cases in the software and manufacturing industries. Conducted extensive theoretical and empirical analyses of possible competitive effects from non-horizontal aspects of the proposed merger of General Electric and Honeywell in 2001.
- Prepared as a testifying expert in two merger cases in the computer software industry. Conducted analyses of the transactions, including modeling of the competitive effects and data analysis to support theoretical predictions, and prepared draft expert reports.

A.4.f. Selected OECD experience

- Oversaw the development and implementation of training and outreach activities directed at staffers at emerging competition authorities in Asia.
- Developed a series of training workshops in Hanoi, Vietnam; Busan and Seoul, South Korea; and Singapore focused on merger policy, cartel enforcement, antitrust aspects of competitor collaborations, quantitative analysis in competition policy enforcement, and monopolization and abuse of dominance. Representatives from virtually all national competition authorities in Asia participated in one or more of the workshops.
- Designed, organized, and led workshops on competition policy enforcement for China’s Ministry of Commerce (MOFCOM) and State Administration for Industry and Commerce. Workshops were held in Xi’an and Shanghai.

A.5. Testimony and submitted reports

- *Anthony Oliver, et al. v. American Express Company et al.*, US District Court for the Eastern District of New York. Expert report: January 16, 2023; deposition: March 9, 2023; trial: August 2025.
- "Competitive Risks from the CRTC's Wholesale HSA Policy," Expert report prepared for Bragg Communications and Cogeco Communications, Inc. in the Matter of Telecom Notice of Consultation CRTC 2024-292, Canadian Radio-television and Telecommunications Commission, December 12, 2024.
- "An Evaluation of Competition and Wholesale HSA Regulation in Canada," Expert report prepared for Bell Canada in the Matter of Telecom Notice of Consultation CRTC 2023-56, Canadian Radio-television and Telecommunications Commission, June 22, 2023.
- *Plymouth County Retirement System, et al. v. Patterson Companies, Inc., et al.,* US District Court for the District of Minnesota. Expert report: January 21, 2021; deposition: April 6, 2021.
- *In re Axon Enterprise, Inc., a Corporation*, Docket Number 9389, before the Federal Trade Commission Office of Administrative Law Judges. Expert report: September 4, 2020; rebuttal report: September 25, 2020; deposition: October 1, 2020.
- "Competition, Investment, and MVNO Mandates: Recent Market Developments and Response to Initial Interventions." Expert report prepared for Shaw Communications, Inc. in the Matter of Telecom Notice of Consultation CRTC 2019-57, Canadian Radio-television and Telecommunications Commission, November 22, 2019.
- "The Evolution of Facilities-Based Competition in Canada." Expert report prepared for Shaw Communications, Inc. in the Matter of Telecom Notice of Consultation CRTC 2019-57, Canadian Radio-television and Telecommunications Commission, May 15, 2019.
- *State of Wisconsin et al. v. Indivior Inc. et al.,* US District Court for the Eastern District of Pennsylvania. Expert report: November 2018; rebuttal report: April 2019; depositions: February 2019 and June 2019.
- "An Assessment of Wholesale Roaming Policy in Canada: Response to Supplemental Intervention of Ice Wireless in Telecom Notice of Consultation CRTC 2017-259." Expert report prepared for Shaw Communications, Inc. in the Matter of Telecom Notice of Consultation CRTC 2017-259, Canadian Radio-television and Telecommunications Commission, November 3, 2017.
- "An Assessment of Wholesale Roaming Policy in Canada: Response to Initial Interventions in Telecom Notice of Consultation CRTC 2017-259." Expert report prepared for Shaw Communications, Inc. in the Matter of Telecom Notice of Consultation CRTC 2017-259, Canadian Radio-television and Telecommunications Commission, October 27, 2017.

- "An Assessment of Wholesale Roaming Policy in Canada: The Interaction of Competition, Regulation, Access and Investment." Expert prepared for Shaw Communications, Inc. in the Matter of Telecom Notice of Consultation CRTC 2017-259, Canadian Radio-television and Telecommunications Commission, September 8, 2017.

A.6. Papers and publications

- Emch, Eric, Randy Chugh, Mico Mao, and Matthew Wohlleben. "Evidence on the Impact of the Axon-VieVu Merger." *Antitrust Source* 24, no. 4 (2025).
- Emch, Eric, Thomas D. Jeitschko, and Arthur Zhou. "What Past Agency Actions Say About Complexity in Merger Remedies, with an Application to Generic Drug Divestitures." *Competition: Journal of the Antitrust, UCL, and Privacy Section of the California Lawyers Association* 27, no. 1 (2018): 87–104.
- Emch, Eric, and David C. Kully. "Partial Cross-Ownership and Antitrust: Putting the Current Debates in Context." *Cartel & Joint Conduct Review* 13, no. 1 (2017): 3–17.
- Armington, Elizabeth, Eric R. Emch, and Ken Heyer. "The Year in Review: Economics at the Antitrust Division, 2005–2006." *Review of Industrial Organization* 29, no. 4 (2006): 305–26.
- Emch, Eric R., and T. Scott Thompson. "Market Definition and Market Power in Payment Card Networks." *Review of Network Economics* 5, no. 1 (2006): 45–60.
- Emch, Eric R., Ken Heyer, and Robert Majure. "The Year in Review: Economics at the Antitrust Division, 2004–2005." *Review of Industrial Organization* 27, no. 3 (2005): 197–221.
- Emch, Eric R. "GECAS and the GE/Honeywell Merger: A Response to Reynolds and Ordover." *Antitrust Law Journal* 72, no. 1 (2004): 233–66.
- Emch, Eric R. "'Portfolio Effects' in Merger Analysis: Differences between EU and US Practice and Recommendations for the Future." *Antitrust Bulletin* (Spring/Summer 2004): 55–100.
- Emch, Eric R. "Price Discrimination via Proprietary Aftermarkets." *Contributions to Economic Analysis & Policy* 2, no. 1 (2003), http://www.bepress.com/bejeap/contributions/vol2/iss1/art4.
- Dick, Andrew W., Aaron Edlin, and Eric R. Emch. "The Savings Impact of College Financial Aid." *Contributions to Economic Analysis & Policy* 2, no. 1 (2003), http://www.bepress.com/bejeap/contributions/vol2/iss1/art8.
- Edlin, Aaron, and Eric R. Emch. "The Welfare Effects of Price Matching Policies." *Journal of Industrial Economics* 47, no. 2 (1999): 145–67.

- Emch, Eric R. "Does Opportunism Explain Markups in Laser Printer Toner and Memory? No and Yes: Evidence on Aftermarket Pricing for Laser Printers." Department of Justice Discussion Paper EAG 02-3, March 2002.

A.7. Selected presentations

- "The Role of Antitrust and Its Boundaries," Moderator, Bates White Antitrust Symposium, September 30, 2025
- "Economic Analysis in Competition Cases." Panelist, E.CA Law and Economics Expert Forum, May 19, 2025
- "IP and Digital Platform Remedies." Moderator, ABA Antitrust Law Section webinar, May 5, 2025
- "Fundamentals—Economics." Panelist, ABA Antitrust Law Spring Meeting, April 2, 2025
- "Theories of harm in unilateral conduct cases concerning Big Tech in the US and Europe." Panelist, GCR Live Law Leaders Global, January 30, 2025
- "Can We Fix It? The Performance of Remedies and How Best to Intervene." Panelist, Centre for Competition Economics seminar, January 31, 2024
- "The Machinery of Making Modern Music." Panel Chair, ABA Antitrust Law Spring Meeting, April 11, 2024
- "DMA—Trial and Error Regulation?" E.CA Expert Forum, April 17, 2023
- "Big Tech Antitrust Bills." Concurrences Global Antitrust Economics Conference, December 8, 2022
- "Monopolization v. Dominance: US v. EU?" Concurrences Judge Douglas Ginsberg Liber Amicorum Conference, November 5, 2018
- ABA Merger Practice Workshop. ABA Section of Antitrust Law, October 26, 2018
- "Innovation and Merger Control." Panelist, ABA Antitrust Law Spring Meeting, April 11, 2018
- ABA Merger Practice Workshop. ABA Section of Antitrust Law, September 28, 2017
- "Merger Enforcement." Panelist, 11th Annual Global Antitrust Enforcement Symposium, Georgetown Law, September 12, 2017
- "Fundamentals of Antitrust Economics Series: Market Power." Teleconference presentation, ABA Section of Antitrust Law, January 17, 2017

- "Price Discrimination Markets in Merger Cases: from Investigations to Courtrooms." Teleconference presentation, ABA Section of Antitrust Law, May 18, 2016
- "Fundamentals of Antitrust Economics Series: Market Power." Teleconference presentation, ABA Section of Antitrust Law, March 10, 2016
- "Fundamentals of Antitrust Economics Series: Coordinated and Vertical Effects." Teleconference presentation, ABA Section of Antitrust Law, February 13, 2015
- "Merger Remedies in Theory and Practice." Panel moderator, 2014 Hal White Antitrust Conference, Bates White Economic Consulting, Washington, DC, June 9, 2014
- "Deviation in Dominance: Why Is Your Client a Monopolist There but Not Here?" Teleconference panelist, ABA Section of Antitrust Law, February 18, 2014
- "The Economics of Vertical Foreclosure." Panelist, 2013 Hal White Antitrust Conference, Bates White Economic Consulting, Washington, DC, June 3, 2013
- "Fundamentals: Antitrust Economics." Panelist, ABA Antitrust Law Spring Meeting, Washington, DC, April 10, 2013
- "Antitrust in Asia: Recent Developments in China, Japan, and Korea." Presentation, Dechert LLP, Washington, DC, August 1, 2012
- "Using Data and Economic Logic to Improve Antitrust Enforcement." Presentation, Workshop for the Chinese Ministry of Commerce, sponsored by the Asian Development Bank, Lijiang City, People's Republic of China, 2009
- "Antitrust Approaches to Partial Equity Investments." American Antitrust Institute 9th Annual Energy Roundtable, Washington, DC, 2009
- "Competition Enforcement versus Sector Regulation: An International Perspective." Presentation, Korean Competition Law Association International Symposium, Seoul, South Korea, 2008
- "The Theory and Application of Competition Policy." Presentation, International Symposium for Antitrust Enforcement, State Administration for Industry and Commerce, Beijing, People's Republic of China, 2007
- "Merger Policy: An International Perspective." Seminar, Shanghai University of Finance and Economics, Shanghai, People's Republic of China, 2007
- "The US Electricity Market: The Economics of the Exelon/PSEG Merger." Presentation, Workshop on the Liberalization of Electricity Markets, OECD Regional Competition Center, Budapest, Hungary, 2007
- "The Economics of Tying and Bundling." Presentation, International Seminar on Abuse of Dominance, sponsored by OECD and the Antimonopoly Office of the Slovak Republic, Bratislava, Slovakia, 2007

- "Market Definition and Market Power in Payment Card Networks." Presentation, Antitrust in Two-Sided Industries, eSapience Conference, Boston, MA, 2006
- "The Economics of Vertical Mergers." Training session for Antitrust Division lawyers and economists, Washington, DC, 2005
- "The Competitive Effects of Horizontal Mergers: Unilateral and Coordinated." Annual training session for new Antitrust Division lawyers and economists, Washington, DC, 2003–2005
- "Competition Policy and Value Creation." Presentation, Productivity, Innovation, and Value Creation Conference, Conference Board, Amsterdam, Netherlands, 2004
- "GECAS and the GE/Honeywell Merger." Presentation, CRA International, Washington, DC, 2004
- "Market Definition in Payment Systems." Presentation, NY State Bar Association, New York, 2004
- "Vertical Foreclosure in the Aircraft Engine Market? The Role of GE Capital Aviation Services in Killing the GE/Honeywell Merger." Presentation, INFORMS Marketing Science Conference, University of Maryland, College Park, MD, 2003
- "Antitrust Principles." Training sessions, Hungarian Office of Competition, Budapest, Hungary, 2001
- "Merger Analysis." Workshop, Romanian Office of Competition, Timisoara, Romania, 2001
- "The Role of Economics in Antitrust." Presentation, NEI, Rotterdam, Netherlands, 2000

A.8. Courses taught

- Industrial Organization (undergraduate), Georgetown University (Adjunct Professor), Fall 2024
- Microeconometrics (graduate), Johns Hopkins University (Adjunct Professor), Spring 2010–Fall 2011
- Industrial Organization and Public Policy (undergraduate), UC Berkeley (Graduate TA), Fall 1997–Spring 1998

A.9. Professional associations

- American Bar Association
    - Vice Chair, Intellectual Property Committee, 2023–present

- American Economic Association
- Industrial Organization Society

A.10. Referee

- *American Economic Review*
- *B.E. Journals in Economic Analysis and Policy*
- *International Journal of Industrial Organization*
- *Journal of Industrial Economics*
- *Review of Industrial Organization*

A.11. Distinctions and honors

- Lexology Index (formerly *Who's Who Legal*) Recommended International Competition Economists, 2014–present
  - Thought Leader in Competition, 2021–present
- Antitrust Division Award of Distinction, 2004
- Victor Kramer Foundation Fellowship, 2002–2003
- Alfred P. Sloan Foundation Doctoral Dissertation Fellowship, 1998–1999
- UC Berkeley Department of Economics Fellowship, 1997–1998
- Olin Foundation Fellowship in Law and Economics, 1996–1997
- IBER Distinguished Graduate Fellowship, 1994–1995
- Flood Fellowship in Economics, 1993–1994
- Class of 1873 Prize for Excellence in Economics, Brown University, 1991

Appendix B. Materials relied upon

I incorporate by reference all of the materials cited within the footnotes and sources in this declaration and the accompanying backup materials.

Appendix C. Data appendix

<table>
<tr><th>Party</th><th>Workbook name</th><th>Dataset label as referenced in sources</th><th>Notes</th></tr>
<tr><td>WGAW</td><td>WGAW Screen Earnings 2021-2025</td><td>WGAW screen earnings data, 2021-2025</td><td>* Spans 2021-2025
* WGAW collects writer earnings quarterly
* Incomplete earnings for second half of 2025</td></tr>
<tr><td>WGAW</td><td>WGAW Screen Earnings 2016-2018</td><td>WGAW screen earnings data, 2016-2018</td><td>* Spans 2016-2018
* WGAW collects writer earnings quarterly</td></tr>
<tr><td>WGAE</td><td>WGAE Screen Earnings 2021-2025</td><td>WGAE screen earnings data, 2021-2025</td><td>* Spans 2021-2025
* WGAE collects writer earnings quarterly
* Incomplete earnings for second half of 2025</td></tr>
<tr><td>WGAE</td><td>WGAE Screen Earnings 2016-2018</td><td>WGAE screen earnings data, 2016-2018</td><td>* Spans 2016-2018
* WGAE collects writer earnings quarterly</td></tr>
<tr><td>WGAW, third party sources</td><td>2015-2024 WGA Film Lists</td><td rowspan="2">Film list data</td><td>* Spans 2015-2024
* WGAW complies annual film lists with information on production budget and production studio
* WGAW relies on third party sources like ComScore and Luminate</td></tr>
<tr><td>WGAW</td><td>Parent names</td><td>* Spans 2015-2025
* WGAW provides production studio information on films previously missing information</td></tr>
</table>

Party	Workbook name	Dataset label as referenced in sources	Notes
WGAW, The Numbers	The Numbers movie list (2025)_WGA Coverage + Budget		* Covers 2025 * Relies on *movie_summary* and *production_countries* file from The Numbers * WGAW provides production budget and additional notes * Limits to domestic films
Third party	External research		* External research on production budgets and production studios
WGAW, Luminate	Streaming originals 2025 film list		* Covers 2025 * WGAW provides a list of English language streaming films * Relies on Luminate and third party sources
Luminate	Luminate Budgets Export Theatrical+Streaming_2025_10M plus		* Covers 2025 * Luminate is a third party entertainment data provider for production budget information
WGAW	2021-2024 Participating Writers Datasets	WGA writing jobs and production budget from the WGAW	* Spans 2021-2024 * WGAW compiles numbers of writing jobs (WGAW and WGAE inclusive) for theatrically released films with $50 million or higher production budget * WGAW considers all participating writing jobs, such as revision work or participating in roundtables, irrespective of official credit * Contains production budget for each film
The Numbers	technical_credits	The Numbers movie summary	* Spans films released since 2013 * Rereleases were removed

Party	Workbook name	Dataset label as referenced in sources	Notes
The Numbers	movie_summary	The Numbers technical credits	* Spans films released since 2013 * Rereleases were removed