PREPARED STATEMENT FOR THE RECORD OF
CINEMA UNITED

for the

COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY & CONSUMER RIGHTS

UNITED STATES SENATE

at a hearing entitled

"EXAMINING THE COMPETITIVE IMPACT OF THE PROPOSED NETFLIX-WARNER BROS. TRANSACTION"

FEBRUARY 3, 2026

Cinema United appreciates the opportunity to share our views for today's hearing on "Examining the Competitive Impact of the Proposed Netflix-Warner Brothers Transaction."[1]

We are deeply concerned that the acquisition of Warner Bros. by Netflix will have a direct and irreversible negative impact on movie theatres around the world. Such an acquisition will further consolidate control over production and distribution of motion pictures in the hands of a single, dominant, global streaming platform in a market that is already highly concentrated. The impact will not only be felt by theatre owners, but by movie fans and surrounding businesses in communities of all sizes. If Paramount or another major studio ends up displacing Netflix as the buyer, our concerns are no less serious. A combination of Paramount and Warner Bros., for instance, would consolidate as much as 40% of each year's domestic box office in the hands of single dominant studio.

As this testimony will outline, the proposed acquisition of Warner Bros. will result in fewer movies being made for theatres. Because of the clear harm such a transaction will have, we applaud your leadership in holding this hearing, and respectfully request that you continue this vigorous oversight of the proposed acquisition of Warner Bros. by Netflix or any other major buyer. We likewise encourage the Subcommittee to consider the likelihood that the transaction would cause substantial harm to a cornerstone of American cultural life by putting the future of local theatres in jeopardy along with nearby small and local businesses.

Movie theatres are a Main Street industry, not a Hollywood industry, acting as cultural and economic engines for the communities they serve. Your local theatre, in addition to providing the premiere out-of-home entertainment experience, anchors foot traffic, supports nearby small businesses, and keeps local dollars in local communities.[2] Recent research shows that for each dollar spent in a local movie theatre, an additional $1.50 is spent at surrounding businesses—including restaurants, bars, shopping centers, transportation, and other businesses in the community.[3] Less foot traffic, in turn, equals less revenue for the entire community.[4] The exhibition industry also creates and support jobs across a broad range of professions throughout the country.

The exhibition industry is dependent on movie studios for the films fans see at their local theatres. Unfortunately, after decades of consolidation, theatres in communities across the

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[1] Cinema United is the largest film exhibition trade organization in the world, representing more than 31,000 movie screens across all 50 states, and over 30,000 additional screens in 80 countries worldwide. Our membership includes theatres of all sizes, from large cinema chains to one-screen theatres, in cities and towns across the country. As the voice of cinema operators, Cinema United is dedicated to advocating for policies that promote and strengthen the theatrical exhibition industry around the world, drive innovation and ensure the magic of a movie on the big screen endures for generations to come.

[2] *See* ERNST & YOUNG, ECONOMIC CONTRIBUTIONS OF THE US MOVIE THEATER INDUSTRY 12 (AUG. 2021), https://cinemaunited.org/wp-content/uploads/2021/08/NATO-Econ-Impact-Final-Report-2021-August-16th.pdf ("[Ernst & Young] estimates that nationwide dining and retail spending associated with movie visits is $5 billion.").

[3] BEACON ECONOMICS, 2023 ECONOMIC & FISCAL IMPACT ANALYSIS OF THE UNITED STATES MOVIE THEATRE INDUSTRY (2023), https://cinemaunited.org/wp-content/uploads/2025/12/2023-Beacon-Economics-Impact-Report.pdf.

[4] *Id.*

country face a world in which the movie studio industry is highly concentrated. This industry has undergone significant changes, in large part due to a series of mergers and acquisitions. From 1995 to 2025, the "Big Five" studios—Disney, Paramount, Sony, Universal, and Warner Bros.—accounted for a staggering 77% of the total North American market.[5] This group had previously been known as the "Big Six," prior to Disney's acquisition of 20th Century Fox in 2019.[6] Notably, the Disney-Fox merger was allowed to proceed despite many independent theatre operators expressing concerns that it would reduce output and consumer choice.[7]

Further consolidation occurred post-2020, after a federal court terminated the Paramount Consent Decrees, which served to block vertical integration among film studios.[8] Since then, Amazon bought Paramount's global distribution rights and created the Paramount+ channel on Prime Video.[9] Subsequently, in 2022, Amazon also acquired Metro-Goldwyn-Mayer Studios, Inc. (MGM), despite several stakeholders again raising antitrust concerns[10] and an in-depth investigation by the Federal Trade Commission.[11] Additionally, HBO Max and Discovery+ merged to become a single streaming service, under the relatively newly merged Warner Bros.[12] And, most recently, this past summer, Skydance completed its acquisition of Paramount Global.[13]

Amid this backdrop of significant M&A activity, Netflix is now seeking to acquire Warner Bros., a streaming competitor that controls a significant library of shows and movies. If

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[5] THE NUMBERS, *Market Share for Each Distributor 1995-2025,* https://www.the-numbers.com/market/distributors (last visited Dec. 18, 2025); *see* Georg Szalai & Paul Bond, *Disney Closes $71.3 Billion Fox Deal, Creating Global Content Powerhouse*, THE HOLLYWOOD REPORTER (Mar. 19, 2019), https://www.hollywoodreporter.com/news/general-news/disney-closes-fox-deal-creating-global-content-powerhouse-1174498/ (noting that Disney completed its acquisition of 21st Century Fox).

[6] Hannah Shaw-Williams, *Disney's Acquisition of 20th Century Fox: A Complete Timeline,* SCREEN RANT (Feb. 9, 2019), https://screenrant.com/disney-fox-deal-buyout-timeline/.

[7] *See, e.g.*, Ryan Faughnder, *With Fox, Disney Will Have An Even Bigger Footprint In Hollywood*, L.A. TIMES (Mar. 8, 2019), https://www.latimes.com/business/hollywood/la-et-mn-disney-fox-merger-how-will-change-hollywood-20190308-story.html ("Some theaters worry that the number of movies released theatrically will shrink dramatically once the Fox deal closes. Disney focuses almost exclusively on expensive productions that draw huge global audiences, and Fox's more mid-level films may be scrapped.").

[8] Mitchell Schuster, *A Rebooted Debate: How the Paramount Decrees Repeal Could Spell a New Era of Modern Antitrust Law*, 248-251, 20 J. BUS. & TECH. L. (2025), https://digitalcommons.law.umaryland.edu/jbtl/vol20/iss2/5.

[9] Greg Sandoval, *Amazon Prime Acquires Access To Paramount Films,* CNET (May 23, 2012), https://www.cnet.com/tech/services-and-software/amazon-prime-acquires-access-to-paramount-films/.

[10] *See, e.g.*, Jill Goldsmith, *Labor Union Coalition Lobbies FTC To Block Amazon-MGM Deal: Sees "Harmful Vertical Integration In Film Industry,"* DEADLINE (Aug. 11, 2021), https://deadline.com/2021/08/labor-union-coalition-soc-ftc-amazon-mgm-1234812754/.

[11] Competition Policy Int'l, *Amazon Pushes FTC For Decision On $8.45B MGM Acquisition,* PYMNTS (Mar. 6, 2022), https://www.pymnts.com/cpi-posts/amazon-pressures-ftc-to-deliver-verdict-on-8-45b-acquisition-of-mgm/.

[12] Winston Cho, *Why Warner Bros. Discovery's Issues Are Beyond 'Batgirl,'* THE HOLLYWOOD REPORTER (Aug. 17, 2025), https://www.hollywoodreporter.com/business/business-news/warner-bros-discovery-batgirl-antitrust-1235197626/.

[13] *Skydance Media And Paramount Global Complete Merger, Creating Next Generation Media Company,* PARAMOUNT (Aug. 7, 2025), https://www.paramount.com/press/skydance-media-and-paramount-global-complete-merger-creating-next-generation-media-company.

Netflix's proposed acquisition of Warner Bros. is not challenged, the threat to our members is grave—and possibly even existential—given its hostility toward exhibition.[14] Until recently, Netflix described theatrical distribution as "outmoded," and restated their goal to make movies exclusively for Netflix members distributed primarily on Netflix, not in theatres.[15]

Since 2023, the average theatrical window—the time during which a film plays exclusively in theatres—for Netflix releases has been only 11 days,[16] undermining the audience awareness that comes alongside longer box office exposure. In contrast, the average theatrical window for wide releases of major films is significantly longer: 38 days in 2023 and 32 days in 2024.[17] If Netflix succeeds in acquiring Warner Bros., the results will be economically and culturally catastrophic: fewer theatres, shorter windows, less revenue, fewer jobs, and fewer movies for consumers to see in theatres.[17]

As a vertically integrated producer and streaming distributor, Netflix could very well use the deal to bolster its streaming library while allowing Warner Bros.' studio operations to wither on the vine. The transaction would give Netflix the incentive and ability to foreclose or restrict exhibitors' access to movies, including "must-have" titles, raising our members' costs and impairing effective downstream competition. Ultimately, Netflix's vertical integration of the dominant global subscription streaming platform with a major theatrical studio would allow the merged firm to impose exclusionary and one-sided requirements on exhibitors, including shortened theatrical windows and worse terms.

Although Netflix's executives have recently claimed they are committed to theatrical releases post-merger, a true commitment requires both a robust slate of movies in theatres and a meaningful period of theatrical exclusivity supported by sufficient marketing, which is essential to maximizing the film's success. Moreover, a mere promise to provide theatre owners with robust exclusive windows could be easily broken or manipulated to degrade the theatrical experience and drive fans to the company's streaming service.

Critically, this merger would harm not just local theatres, but also the communities and surrounding businesses they support. As discussed, dining and retail spending associated with movie theatre visits adds up to billions of dollars spent at local restaurants and retail outlets

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[14] *See* Nicole Sperling, *Netflix Does an About-Face, in a Big Way*, N.Y. TIMES (Dec. 5, 2025), http://nytimes.com/2025/12/05/business/media/netflix-movie-theaters-warner-bros.html ("In 2022, Ted Sarandos, a co-chief executive of Netflix, said, 'We make our movies for our members, and we really want them to watch them on Netflix.' In May of this year, he called theatrical distribution 'an outmoded idea.' And in October, Mr. Sarandos said on an earnings call that the company's goal was to 'give our members exclusive first-run movies on Netflix.'").

[15] Tom Brueggemann, *Sean Baker Wants 90 Days, but the New Average for Theater Exclusivity Is 32*, INDIEWIRE (Feb. 12, 2025), https://www.indiewire.com/news/box-office/sean-baker-90-days-theaters-only-films-32-1235094371/.

[16] Press Release, The Numbers, The Numbers Business Report: the Economics of a Netflix-Warner Bros. Deal (Dec. 19, 2025), https://www.the-numbers.com/news/260470830-Numbers-Business-Report-the-economics-of-a-Netflix-Warner-Bros-deal-The.

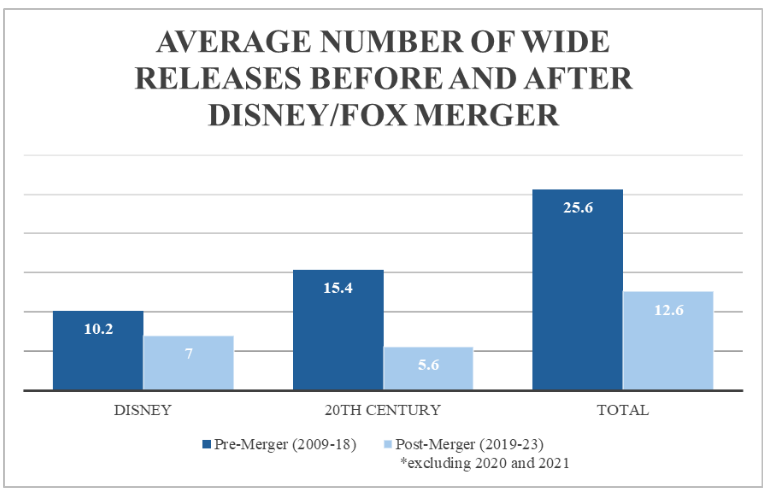
[17] *See id.* A "wide release" is 2,000 or more locations in North America. *See* CINEMA UNITED, Release Calendar, https://cinemaunited.org/wp-content/uploads/2026/02/Windows-Analysis-July-2025.pdf (last visited Feb. 2, 2026).

nationwide.[18] A merger that reduces economic activity at theatres would likewise reduce foot traffic to nearby hospitality, restaurants, and other businesses.[19] Less foot traffic, in turn, equals less revenue and fewer jobs for the entire community.[20]

Although our concerns are slightly different if Paramount or another major studio emerges as the buyer of Warner Bros., they are also serious. The key to a successful industry overall is having a diverse, robust, and consistent product pipeline that responds to consumer demand. The number of films being produced for theatrical exhibition is slowly returning to pre-2019 levels. However, that necessary trend is threatened by further consolidation. At best, an acquisition of Warner Bros. will stall the growth we have seen in the last four years. More realistically, however, it will result in a significant reduction of theatrical releases.

These concerns are not theoretical. We have seen the following harms from past mergers:

- **Reduced Availability of Films:** Consolidation among major studios has left a small number of companies controlling most of the motion-picture production. As smaller theatre operators warned, this concentration has led to fewer films being made with an outsized focus on high-budget franchises over diverse storytelling. After the Disney-Fox merger, for example, the entities produced about half the movies they did annually pre-merger (even putting aside pandemic-impacted years).[21]



[18] *See* BEACON ECONOMICS, 2023 ECONOMIC & FISCAL IMPACT ANALYSIS OF THE UNITED STATES MOVIE THEATRE INDUSTRY (2023), https://cinemaunited.org/wp-content/uploads/2025/12/2023-Beacon-Economics-Impact-Report.pdf;

[19] *Id.*

[20] *Id.*

[21] *See, e.g.*, Ryan Faughnder, *With Fox, Disney Will Have An Even Bigger Footprint In Hollywood*, L.A. TIMES (Mar. 8, 2019), https://www.latimes.com/business/hollywood/la-et-mn-disney-fox-merger-how-will-change-hollywood-20190308-story.html; Pamela McClintock & Paul Bond, *Anxiety, AWOL Executives and "Bloodshed": How Disney Is Making 21st Century Fox Disappear*, The Hollywood Reporter (Feb. 6. 2019), https://www.hollywoodreporter.com/movies/movie-features/how-disney-will-make-21st-century-fox-disappear-1182704/; Scott Mendelson, *4 Years Under Disney: What Is 20th Century Studios Now?*, THE WRAP (Sept. 29, 2023), https://www.thewrap.com/fox-disney-searchlight-hulu-oscars-marvel-avatar/.

- **Increased Leverage for Studios vis-à-vis Theatre Owners:** Fewer movie studios not only harms consumer choice by reducing available films but also means increased and concentrated market power for the remaining studios. This can further dilute the "negotiation" of the terms and conditions under which movies are shown in theatres. The present environment where very few theatre owners truly have any leverage in negotiating reasonable terms will be exacerbated by fewer studios distributing movies. Ultimately, the elimination of yet another stand-alone studio would increase the remaining studios' power over theatre owners on key matters, such as periods of exclusivity for films, tailored scheduling to appeal to local communities, and screen placement. Beyond the marketplace realities of these negotiations, fewer studios competing for space in theatres will only increase the existing leverage currently held by the major distributors.

- **Reduced Diversity of Films:** Major studios are incentivized to prioritize content that has broad audience appeal at the expense of the innovative and culturally diverse stories and perspectives that smaller studios typically champion. With fewer studios controlling more market share, small and independent films could struggle to find funding and distribution, reducing the quantity, quality, and diversity of films. This would impact not just creatives who develop, direct, and produce small and independent films, but also the movie-going public, which would have fewer options at their local cinemas.

- **Job Losses**: Mergers often result in layoffs and can increase a movie studio's monopsony power over workers. This can negatively affect the industry's workforce, including creative, distribution and exhibition.[22] Beyond employees at the impacted studios, less production results in fewer jobs for the creative community represented by guilds and unions representing the critical creative community that produces the films our members rely on.[23]

Finally, the merging parties have claimed that, absent a sale, Warner Bros. may collapse financially. But based on its public financial information, Warner Bros. is not a failing firm. Warner Bros.' had a "record-setting year" in the box office in 2025,[24] while many of its films generated the most revenue for our members. Warner Bros. even set a Hollywood record in 2025: seven consecutive films with an opening of more than $40 million in profit.[25] Should either

[22] *See, e.g.*, Benjamin Mullin, *Paramount to Lay Off 2,000 Employees* (Oct. 29, 2025), N.Y. TIMES, https://www.nytimes.com/2025/10/29/business/media/paramount-layoffs-skydance.html ("Paramount on Wednesday began laying off more than 2,000 employees, a long-awaited consequence of its merger with the Hollywood studio Skydance.").

[23] *See, e.g.*, Bob Hopkinson, *Broken Promises Bulletin: How the Warner Bros. Discovery Merger Hurts Workers and Diversity,* WRITERS GUILD OF AMERICA WEST (Jan. 30, 2023), https://www.wga.org/news-events/news/press/broken-promises-bulletin-how-the-warner-bros-discovery-merger-hurts-workers-and-diversity.

[24] *Id.*

[25] Rebecca Rubin, *After 'Conjuring: Last Rites,' Warner Bros. Makes Box Office History With 7 Consecutive Movies Opening Above $40 Million,* Variety (Sept. 7, 2025) https://variety.com/2025/film/news/warner-bros-box-office-historic-streak-conjuring-last-rites-1236510864.

company acquire this booming studio and slash production, our members will take a serious—perhaps fatal—financial hit.

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Movie theatres are cultural and economic anchors of their communities—we are a Main Street industry. That is what is at risk here if we sanction fewer movies in the marketplace. Theatres will close, communities will suffer, jobs will be lost.

We must heed the lessons of the past: further industry consolidation has consistently led to fewer movies being made, and there is no reason whatsoever to believe the outcome here would be any different particularly given Netflix's stated views of movie theatres over the past decade-plus.

For the reasons set forth above, we strongly urge you to conduct vigorous oversight of the acquisition of Warner Bros. to ensure it does not harm competition or our local businesses and communities.