FIFTH SUPPLEMENT TO MEMORANDUM 2025-42

Antitrust Law: Status Update (Mergers Public Comment)

This supplement presents a public comment received by the Commission related to Memorandum 2025-42.[1] The public comment is attached as an Exhibit to this supplement.

As with prior memoranda, a brief description of each commentator is below.

Cinema United

This comment was submitted by Michael O'Leary, President & Chief Executive Officer of Cinema United. According to its website:

> Cinema United is the largest exhibition trade organization in the world, representing more than 31,000 movie screens in all 50 states, and more than 30,000 screens in 80 countries worldwide.

PUBLIC COMMENT

Cinema United writes in support generally of California having its own merger provisions "to protect is consumers, workers, and business owners"[2] to counteract the consolidation of the movie studio industry.

Respectfully submitted,

Sarah Huchel
Chief Deputy Director

Sharon Reilly
Executive Director

[1] Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise. The Commission welcomes written comments at any time during its study process.

Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

[2] EX 1.

CINEMA UNITED

December 1, 2025

The Honorable Richard Simpson, Chair,
and Honorable Commissioners
California Law Revision Commission
Legislative Counsel Bureau
925 L Street, Suite 275
Sacramento, CA 95814

RE: Antitrust Law – Study B-750 of the California Law Revision Commission

Dear Chairperson Simpson and Honorable Commissioners:

Cinema United appreciates the opportunity to comment on the California Law Revision Commission's (CLRC) study on California's antitrust laws, Study B-750. We strongly support the work of the Commission and Commission Staff in reaching their conclusion that California must update its antitrust law to establish its own antitrust regimes on mergers and single-firm conduct, independent of complete and total reliance on federal law and enforcement. In particular, Cinema United urges the Commission to take this opportunity to ensure state government and private enforcers have sufficient antitrust authority to protect and enhance competition in the media industry for the benefit of California consumers, workers, and our member movie theatre operators.

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.[1] 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 foster an environment where our members and their employees can flourish, driving innovation and ensuring the magic of the moviegoing experience endures for generations to come.

Unfortunately, after decades of consolidation, our members face a world in which the movie studio industry is highly concentrated. If trends continue, and without adequate updates to the law, future mergers and acquisitions present a significant risk of further consolidation. This, in turn, threatens harmful anticompetitive effects for California consumers, workers, movie theatre operators, and beyond.

The movie studio industry has undergone significant changes over the past decade as it has become increasingly concentrated. The largest film distributors in the United States—Disney, Paramount, Sony, Universal, and Warner Bros.—are collectively known as the "Big

[1] Cinema United, https://cinemaunited.org/ (last visited Nov. 25, 2025).

Five." Over the period of 1995-2025, these five studios accounted for a staggering 77% of the total market.[2] The "Big Five" had previously been referred to as the "Big Six," when it included 20th Century Fox, but Fox was acquired by Disney in 2019.[3] The U.S. Department of Justice permitted this merger to proceed despite many independent theatre operators expressing concerns that it would harm consumer choice.[4]

Further consolidation occurred post-2020, when a federal court terminated the Paramount Consent Decrees, which sought to block vertical integration among film studios.[5] Since then, Amazon bought Paramount's global distribution rights and created the Paramount+ channel on Prime Video.[6] Then, in 2022, Amazon also acquired Metro-Goldwyn-Mayer Studios, Inc. (MGM), despite several stakeholders again raising antitrust concerns[7] and an in-depth investigation by the Federal Trade Commission.[8] Additionally, HBO Max and Discovery+ merged to become a single streaming service, under the relatively newly merged Warner Bros.[9] And, most recently, this past summer, Skydance completed its acquisition of Paramount Global.[10]

As the CLRC *Concentration and Competition in California* report observed, "While the entire U.S. movie industry is worth an estimated $91.83 billion, a handful of major American studios control 63.7 percent of total film industry revenue—Disney (18.2 percent), NBC

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[2] The Numbers, *Market Share for Each Distributor 1995-2025,* https://www.the-numbers.com/market/distributors (last visited Nov. 25, 2025).

[3] 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/.

[4] *See, e.g.*, Ryan Faughnder, *With Fox, Disney Will Have An Even Bigger Footprint In Hollywood*, Los Angeles 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.").

[5] 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), available at: https://digitalcommons.law.umaryland.edu/jbtl/vol20/iss2/5.

[6] 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/.

[7] *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/.

[8] 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/.

[9] 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/.

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

Universal (16.4 percent), Time Warner (16.2 percent) and 21st Century Fox (12.9).”[11] While not apples to apples, according to more recent data, concentration levels appear to have increased even further with the “Big Five” accounting for 76% of the total box office revenue in the U.S. and Canada for 2024.[12]

Today, as we write this letter, yet another studio mega-merger is looming on the horizon. Warner Bros. is actively seeking to be acquired and one of its major rivals, Paramount, is viewed by many industry observers as a front runner.[13] Should this deal be approved—reportedly valued at over $60 billion—it would consolidate as much as 40% of each year’s domestic box office in the hands of just one media conglomerate.[14] The other major players that have submitted bids include Netflix and Comcast.[15]

Regardless of which buyer comes out on top, an acquisition of Warner Bros. by any one of these companies would lead to harmful anticompetitive effects on California consumers, workers, theatre operators (including small and local businesses), and the creative community. Past mergers, for example, have resulted in the following harms.

- **Reduced Availability of Films:** Mergers among the major studios have led to fewer companies controlling the majority of the market. As smaller theatre operators tried to warn federal antitrust enforcers, this concentration has resulted in fewer movies being made and an outsized focus on big-budget blockbusters and franchises. 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):[16]

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[11] Cal. Law Revision Comm’n, *Memorandum 2024-14: Export Report: Concentration in California,* at 42 (Mar. 28, 2024), https://www.clrc.ca.gov/pub/2024/MM24-14.pdf.

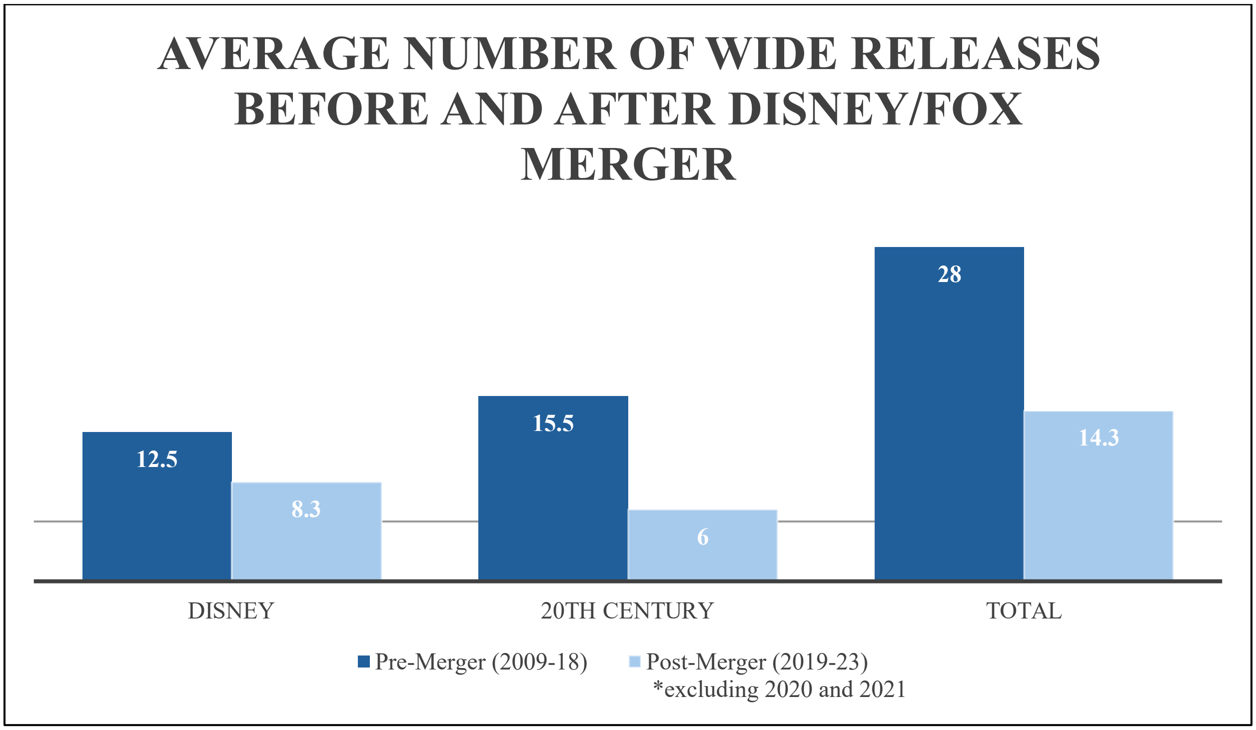
[12] Laura Carollo, *Market Share Of Leading Film Studios In The United States And Canada From 2010 To 2024,* Statista (June 19, 2025), https://www.statista.com/statistics/187171/market-share-of-film-studios-in-north-america-2010/?srsltid=AfmBOoqVqPX21mSDhFozEzdbAKeTOiF_eR993q6NjPcsuJAlxLYBzVIK.

[13] *See, e.g.*, Zaheer Kachwala et al., *David Ellison’s Paramount Seen As Front-Runner For Warner Bros Discovery Deal,* Reuters (Oct. 23, 2025), https://www.reuters.com/legal/transactional/david-ellisons-paramount-seen-front-runner-warner-bros-discovery-deal-2025-10-23/.

[14] Brandon Katz, *How A Warner Bros.-Paramount Merger Could Make Or Break Hollywood,* The Observer (Sept. 11, 2025), https://observer.com/2025/09/warner-bros-discovery-paramount-skydance-merger-analysis/.

[15] Todd Spangler, *Warner Bros. Discovery Sale: Company Set To Review First-Round Acquisition Bids From Paramount, Comcast, Netflix,* Variety (Nov. 20, 2025), https://variety.com/2025/tv/news/warner-bros-discovery-sale-bids-paramount-netflix-comcast-1236586842/.

[16] *See, e.g.,* Ryan Faughnder, *With Fox, Disney Will Have An Even Bigger Footprint In Hollywood*, Los Angeles 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 it also translates into increased and concentrated market power for the remaining studios. This can further dilute the "negotiation" of the terms and conditions under which movies can be shown theatrically. 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 that 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.[17] Beyond employees at the impacted studios, less production results in fewer jobs for the creative community represented by guilds and unions.[18]

In conclusion, the federal government's failure to impede the movie studio industry's rapid pace of consolidation and the associated risks exemplify why California needs its own merger provisions to protect its consumers, workers, and business owners. We look forward to engaging further with the Commission and Commission Staff as you continue this important work including the evaluation of the options presented in Memorandum 2025-31[19] and 2025-42.[20]

Sincerely,

Michael O'Leary
President & Chief Executive Officer
Cinema United

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[17] *See, e.g.*, Benjamin Mullin, *Paramount to Lay Off 2,000 Employees* (Oct. 29, 2025), The New York 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.").

[18] *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.

[19] Cal. Law Revision Comm'n, *Memorandum 2025-31: Draft Language for Merger Provisions* (June 16, 2025), https://www.clrc.ca.gov/pub/2025/MM25-31.pdf.

[20] Cal. Law Revision Comm'n, *Memorandum 2025-42: Public Comment Analysis and Draft Language Options for Mergers and Acquisitions* (Sept. 10, 2025), https://www.clrc.ca.gov/pub/2025/MM25-42.pdf.