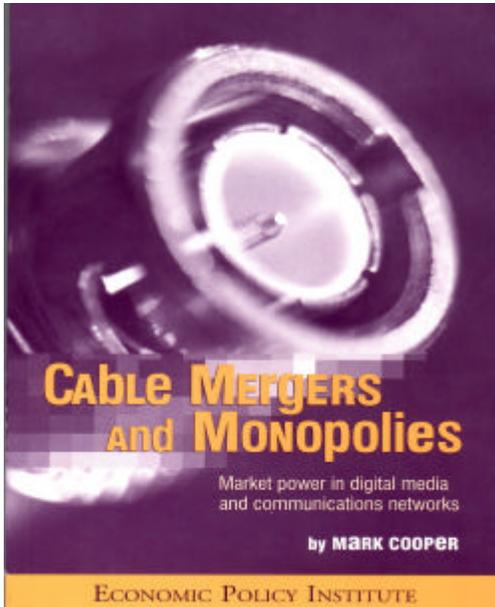


CABLE MERGERS AND MONOPOLIES

Market Power In Digital Media And Communications Networks



Dr. Mark Cooper is the Director of Research at the Consumer Federation of America and a Fellow at the Stanford Law School Center for Internet and Society and the Columbia Institute for Tele-Information. He holds a Ph. D. from Yale University and is a former Yale University and Fulbright Fellow. He has provided expert testimony to courts, legislatures, and regulatory agencies more than 250 times in four dozen jurisdictions in the United States and Canada. His publications include numerous articles in trade and scholarly journals, law review articles on digital society issues and two previous books.

Cable Mergers and Monopolies examines the increasingly concentrated cable TV industry, which has dominated video for a decade and is rapidly gaining dominance in the high-speed Internet market. The book shows how convergence of media and communications in the digital age presents policy makers with unique new challenges to ensure competitive markets. It combines traditional analysis of industrial organization with new economy concepts of information platforms. It offers innovative federal, state and local policies for promoting open, competitive digital markets and preventing abuse of consumers.

“There is no one who understands better the current threat to innovation on the Internet. Cooper’s work, both in writing and activism, has helped define this debate. His analysis is critical to both friend and foe alike.”

Lawrence Lessig, Professor, Stanford Law School

“Cooper provides antitrust authorities with the new analytic tools they need to cope with emerging patterns of anticompetitive conduct in the information economy by identifying the tactics cable monopolists are using to extend their domination from the video market to Internet.”

Howard Metzenbaum, U.S. Senator (retired)

“Why is Federal Communications Commission policy for the media and telecommunications sectors going off the rails? Mark Cooper tells you in this comprehensive, authoritative and deeply persuasive book.”

William G. Shepherd, Professor Emeritus, U Mass. Amherst

“With cable rates skyrocketing and FCC policy opening the door to media mergers, Cooper has thrown down the gauntlet on the public policy challenge to reining in America’s most persistent monopolies.”

Gene Kimmelman, Senior Director of Policy & Advocacy, Consumers Union

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Introduction and Overview – because media and communications industries span important commercial markets and affect the flow of information in the political process, it is especially important to have a clear understanding of their market structure and the impact of mergers. The analysis must consider not only the impact on competition and consumers, but also its effect on civic discourse and citizens. Confronted with a projection of harm to competition or the likelihood that a merger will not promote the public interest, policy makers must either block mergers or take remedial steps to correct the problems they would cause.

PART I: VIDEO

Chapter 1. Underpinnings of Public Policy Toward Mergers in Communications and Media Markets – identifies the statutory and analytic basis for antitrust concerns about harm to competition and the Communications Act's concerns about diversity in civic discourse. It explains the measures of market structure and market power frequently used in merger reviews and the analysis of industrial organization.

Chapter 2. The Persistent Failure of Competition in the Cable Market – presents a map of the video market. It demonstrates a lack of competition for cable with elasticities of demand and substitution, patterns of market expansion, and results of an extensive survey of cable and satellite customers' attitudes and uses. It demonstrates that cable companies have abused market power in multichannel video program distribution, most notably in a clear pattern of pricing abuse and excess profits.

Chapter 3. Discrimination and Anticompetitive Practices of Cable Operators in Video Programming Markets – demonstrates that cable operators, as distributors of programming who are frequently vertically integrated into program production, have a long history of discriminatory practices that prevents new programming from competing with their marquee offerings. As the dominant video distributor, they have sought to weaken competing distributors by starving them of programming. The anticompetitive practices combine with the economics of program production to create a video programming market dominated by a small number of producers, all of whom have guaranteed access to distribution mechanisms through either ownership or carriage rights.

PART II: HIGH-SPEED INTERNET SERVICE

Chapter 4. Unique Characteristics of Digital Communications Platforms – presents a description of communications platforms and the unique concerns they raise about market power. It describes the uniquely dynamic information environment created by open communications platforms and the end-to-end principles of the Internet, while rejecting claims that the exercise of monopoly power in these industries stimulates investment and spurs innovation.

Chapter 5. The Threat to Open Communications Platforms – describes in detail the specific sources of leverage in cable's closed communications platform and the strategies for exercising market power used by firms who dominate closed platforms.

Chapter 6. Cable Market Power in Advanced Telecommunications Markets – discusses cable modem service in the high-speed Internet market. It shows that advanced telecommunications markets are dominated by a very small number of facility owners who have the incentive to foreclose and discriminate against independent content providers. It demonstrates that cable companies have abused market power over this product by examining the cable industry's strategic pricing and withholding of supply of high-speed Internet access service. These strategies parallel the anticompetitive behaviors in the video product space.

PART III: THE AT&T/COMCAST MERGER HARMS COMPETITION AND IS NOT IN THE PUBLIC INTEREST

Chapter 7. The Merger Should Be Rejected Under Both the Antitrust Laws and the Communications Act – demonstrates that the AT&T/Comcast merger will make matters worse in both the video and high speed Internet markets. It shows that the merger violates the guidelines of both the Department of Justice and the Federal Communications Commission in terms of allowable increases in concentration.

Chapter 8. Policies to Ameliorate Anticompetitive Problems Will Be Difficult to Craft – presents a series of remedial measures that could be used by federal, state and local authorities to protect consumers from further abuse in the video market and to blunt the negative impact of anticompetitive practices of owners of advanced telecommunications networks.