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The Justice Department is laying the groundwork for a potential lawsuit challenging AT&T Inc.'s planned acquisition of Time Warner Inc. if the government and companies can't agree on a settlement, according to people familiar with the matter.

The department's antitrust division is preparing for litigation in case it decides to sue to block the deal, these people said. Simultaneously, the department and the companies are discussing possible settlement terms that would lead to the deal winning government approval with conditions attached. The two sides, however, aren't yet close to an agreement, the people said.

The outcome could go either way and the timing of any decision remains uncertain, the people said. Most outside observers have believed the deal, valued at \$85 billion when **it was announced last year**, was likely headed for government approval. The recent developments aren't necessarily an indication that the deal is in trouble, but they do suggest more regulatory uncertainty for the companies than many analysts anticipated. Shares of Time Warner were down 5.4% at \$93.10 in late-morning trading. AT&T's shares were down 1.4% at \$33.08 after spiking as high as \$33.98 immediately after The Wall Street Journal reported a lawsuit was being considered.

"When the DOJ reviews any transaction, it is common and expected for both sides to prepare for all possible scenarios," an AT&T spokesman said. "For over 40 years, vertical mergers like this one have always been approved because they benefit consumers without removing any competitors from the market. While we won't comment on our discussions with DOJ, we see no reason in the law or the facts why this transaction should be an exception." A Time Warner spokesman declined to comment.

AT&T executives have continued to say **the deal is on track to close by the end of the year**, with financing lined up and all government authorities on board except for the Justice Department. A department spokesman declined to comment.

It is common during major government merger investigations for antitrust officials to work on two tracks, one that prepares for litigation and another that works toward a settlement allowing the merger. The antitrust division in recent years has placed renewed emphasis on being ready for a

[legislative districts, too](#)

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lawsuit in case settlement talks break down. If the Justice Department were to sue to block the deal, that wouldn't be the end of the matter unless the companies abandoned their plans. The department would have to present its case to a federal judge and prove that the deal would likely harm competition.

The department has spent a year investigating whether allowing AT&T to buy Time Warner would hurt competition in the media and telecommunications businesses. The deal would

combine AT&T's communications infrastructure, including its cable service and DirecTV satellite service, with Time Warner's broad media portfolio, which includes channels such as CNN, TBS and HBO as well as the Warner Bros. studios.

The company argues the deal would help consumers by making film and TV more affordable. AT&T points to its current moves to lower prices for video content, such as offering discounts for DirecTV Now, an

online pay-TV service. TV programmers are among those who voice concern about the deal, arguing that AT&T's reach—more than 90 million wireless customers and 20 million satellite subscribers—if added to control of some of the most sought-after programming, would greatly disadvantage rival media. Some consumer advocates argue that giving AT&T that much control over both content and its distribution could lead to higher prices and fewer options for viewers.

The Justice Department's antitrust review reached a new level in recent weeks after [the Senate in late September confirmed](#) Makan Delrahim to lead the Justice Department's antitrust division. President Donald Trump nominated Mr. Delrahim in April, but the Senate moved slowly on his confirmation, leaving him on the sidelines while other Justice Department antitrust staffers scrutinized the AT&T-Time Warner transaction. Mr. Delrahim is now involved in the deliberations, people familiar with the matter said.

AT&T officials have met with Justice Department officials in recent weeks, and the department separately has been talking to third parties who are concerned about the deal, such as some rival content providers, according to people familiar with the discussions. It could be a challenge for the Justice Department to mount a case against the deal because the combination of AT&T and Time Warner is a so-called vertical merger, combining companies that represent different links of the supply chain.

Antitrust officials rarely sue to block vertical combinations outright, because they don't typically raise the same kinds of concerns as mergers of head-to-head competitors. The latter are easier to challenge, because it is easier to prove consumer harm when one company seeks to combine with another that has been a significant competitor. The AT&T-Time Warner deal has some similarities to Comcast Corp.'s 2011 takeover of NBCUniversal, a deal the Justice Department [allowed under the Obama administration](#) after Comcast agreed to a range of restrictions on its future behavior. For example, Comcast agreed to make video content available to online competitors of Comcast's cable-television services.

Mr. Delrahim, however, isn't a big supporter of using so-called behavioral remedies to address concerns about a merger, as he stated last Friday in a public appearance at New York University. Antitrust observers took notice of the remarks and have wondered whether his views would make it harder for AT&T to offer concessions the Justice Department would find acceptable. Conservative antitrust enforcers in general don't like behavioral remedies, on the theory that the Justice Department shouldn't be a regulator of future business conduct.

The more traditional way for merging companies to address government antitrust concerns is to sell off assets to competitors to ensure the market stays competitive. It isn't known whether AT&T has offered any asset sales so far or whether the Justice Department has particular assets in mind that it would like AT&T to divest as a condition for government approval.

Hanging over the Justice Department's review are comments Mr. Trump made during last year's presidential campaign in which he said [AT&T shouldn't be allowed to buy Time Warner](#) because it would give too much power to one company. The remarks, part of the Trump campaign's populist message, were unusual because recent presidents and candidates generally haven't taken positions on specific mergers, and the Justice Department usually conducts merger reviews independent of political influence from the White House.

Democrats have expressed concern about Mr. Trump's potential influence, but some have simultaneously urged the Justice Department to block the AT&T deal. During his confirmation process, Mr. Delrahim, who was a deputy White House counsel before being confirmed to the Justice Department post, told senators that [the White House hasn't lobbied him on AT&T](#). At his confirmation hearing in May, he said that politics wouldn't play a role in his antitrust enforcement decisions. – *Wall Street Journal*

Silicon Valley, [once a force for good](#), is now a threat to democracy. At least that's the impression you'd get from the flood of news and commentary about social media's role in the presidential election. This week, representatives of Twitter and Facebook, along with Google, [testified before Congress](#) about how Russia exploited their platforms to interfere with the election.

But while Russian meddling is a serious problem, the current sentiment toward Silicon Valley borders on scapegoating. Facebook and Twitter are just a mirror, reflecting us. They reveal a society that is painfully divided, gullible to misinformation, dazzled by sensationalism, and willing to spread lies and promote hate. We don't like this reflection, so we blame the mirror, painting ourselves as victims of Silicon Valley manipulation.

At the hearing, Senator Dianne Feinstein, Democrat of California, squarely blamed the tech companies for Russian interference. "You bear this responsibility," she said. "You've created these platforms." But we, the users, are not innocent. Some of the Russian propaganda on social media was cribbed from [content that was posted by Americans](#). Yes, social media helps propaganda spread farther and faster. But Facebook and Twitter didn't force users to share misinformation. Are Americans so easily duped? Or more alarming, did they simply believe what they wanted to believe?

In the last few months of the presidential campaign, a [BuzzFeed News analysis concluded](#), fake news stories got more Facebook engagement than the most widely read stories from major news outlets. The Russians didn't single-handedly create this situation; they just jumped into the fray. The real crisis is Americans' inability or unwillingness to sift fact from fiction, a problem that is worsened by the mainstream media's loss of credibility when it comes to setting the record straight.

Some blame social media for Donald Trump's rise to power. The election "shook Silicon Valley's belief that the internet always fosters societal good," Representative Ro Khanna, Democrat of California, wrote [in a Washington Post op-ed essay](#), "Trump used the tools of technology to win." Twitter remains the perfect vehicle for Mr. Trump's nuance-free missives. But it's not Twitter that is making Mr. Trump go viral; it's Twitter's users. They include all the citizens and journalists who follow, retweet and reply to Mr. Trump — even when we do so out of shock or outrage or because his statements have news value. If it weren't for all of us, the president would be shouting into a void.

Twitter could work harder to fight hate speech, but that wouldn't solve other difficult problems like ideological echo chambers and a general dumbing down of the national conversation, because those are also happening in real life. People already seek out cable television channels and newspaper opinion columns that reinforce their views.

Facebook's algorithms may encourage echo chambers, but that's because the company figured out what users want. Have you really never unfriended, unfollowed or muted someone who didn't agree with you? Those who fret about the idea that many Americans don't have access to diverse perspectives should scrutinize Americans' individual choices as well as the platforms on which those choices are made. Shouldn't Silicon Valley be able to fix all of this? If Facebook can connect all of humanity, as its chief executive, Mark Zuckerberg, aims to do, the platform should be able to root out fake news, critics might argue.

But misinformation is a legitimately tricky problem, and the wrong approach could give Silicon Valley even more power than it already has. Who will be the new arbiter of truth? An algorithm? The government? Mr. Zuckerberg or Twitter's chief executive, Jack Dorsey? Some crowdsourcing exercise that involves the "American people," many of whom believed the fake news in the first place? The real problem is that Americans don't have a shared sense of reality.

It has become popular to demonize Silicon Valley. Three recent book titles describe big tech as a "[wrecking ball](#)," an "[existential threat](#)" and an "[underminer of democracy](#)." Antonio García Martínez, a former Facebook employee who helped create the company's ad machine, observed that people feel addicted to Facebook, and then hate themselves and the company because of it. He noted that Facebook is extraordinarily skilled at increasing our addiction. Mr. García Martínez acknowledged [in a Twitter exchange](#) that yes, Facebook is effectively giving users what they want, but the question is whether to give it to them. Put another way, shouldn't social media platforms try to make us eat our vegetables, even if we prefer to gorge ourselves on candy?

A couple of years ago, I was part of a team that tried that very experiment. We ran a Silicon Valley start-up called Parlio, which was later [acquired by Quora](#). Parlio aimed to be a social media platform for civil debate. But [what we discovered](#) was that people loved the idea of reasoned debate, then decided that those debates took too much time. Thoughtful content was also less likely to go viral, and many users are addicted to the sugar rush of virality. So while people liked the idea of eating their vegetables, they still gravitated to Twitter's candy aisle. Social media platforms magnify our bad habits, even encourage them, but they don't create them. Silicon Valley isn't destroying democracy — only we can do that. — *New York Times*

