

# Once Comcast's Deal Shifted to a Focus on Broadband, Its Ambitions Were Sunk

Photo



Comcast workers in Michigan drove into waters too deep to navigate. Regulatory scrutiny is said to have sunk the cable giant's bid for a rival. Credit Andre J. Jackson/Detroit Free Press, via Associated Press

When it was announced a little more than a year ago, it felt to many like a sure thing.

After all, government regulators had approved Comcast's acquisition of NBCUniversal in 2011. Comcast had an army of registered lobbyists, more than 100 strong, in Washington alone. The company's chief executive, Brian L. Roberts, golfed on Martha's Vineyard with President Obama. Its executive vice president, David L. Cohen, hosted three fund-raisers for Mr. Obama, two at his home in Philadelphia, raising a total of more than \$10 million.

But now the \$45 billion Comcast-Time Warner Cable merger is dead. Comcast is folding, in anticipation of regulators rejecting the deal.

The news, which broke on Thursday afternoon, was certainly dramatic. But the air of inevitability that once hung over the deal had been dissipating for months, as the debate over net neutrality — in short, the question of whether Internet providers should be allowed to charge content providers for speedier service — played out in Washington. And a merger that had at first seemed to be primarily about cable television turned into something much different.

Photo



Brian Roberts, chief of Comcast. He golfed on Martha's Vineyard with President Obama, helping to build an appearance of inevitability for the deal. Credit Susan Walsh/Associated Press

The government's verdict on the merger and its stance on net neutrality were separate issues, but they were very much intertwined. At the end of the day, the government's commitment to maintaining a free and open Internet did not square with the prospect of a single company controlling as much as 40 percent of the public's access to it. All the more so given the accelerating shift in viewing habits, with increasing numbers of consumers choosing streaming services like Netflix over traditional TV. In this sense, it didn't really matter if Comcast and Time Warner's cable markets overlapped. The real issue was broadband.

"The simple way to think about the problem with the Comcast merger is that once they get that big, they're pretty much too big to regulate," said Marvin Ammori, a lawyer who helped lead the campaign for net neutrality.

If there was a single moment when the winds seemed to shift against Comcast, it came in November, when President Obama released a video on the White House website in which he spoke about the future of the Internet. For the first time, Mr. Obama, who had long offered support for the idea of net neutrality but had always stopped short of suggesting how it might be achieved, was unambiguously clear about what he wanted. He called on the Federal Communications Commission to adopt "the strongest possible rules" to regulate the Internet.

"For almost a century, our law has recognized that companies who connect you to the world have special obligations not to exploit the monopoly they enjoy over access into and out of your home or business," he said. "It is common sense that the same philosophy should guide any service that is based on the transmission of information — whether a phone call or a packet of data."

The president may have been speaking about net neutrality, but the implications for the merger were clear.

"That was just huge," said Susan Crawford, a co-director of the Berkman Center for

Internet & Society at Harvard University. “It signaled that the cable industry was no longer calling the shots.”

Not long after the president's video, the F.C.C. made good on his promise to regulate Internet service providers more rigorously when it voted to raise the speed required for broadband Internet connections. The decision was a nod to the fact that more than one person is often online at the same time in many of today's households.

It was another move that may not have been explicitly aimed at the proposed merger, but it was ominous all the same. It meant that a lot of Americans living in rural areas no longer had what qualified as high-speed Internet access — making Comcast's already large share of the broadband market considerably larger.

Then, in February, the chairman of the F.C.C., Tom Wheeler, formally proposed new rules treating Internet service as a public utility. It was a significant policy shift, and the clearest demonstration to date that the government intended to police the Internet beat with a new vigilance. And it was more bad news for Comcast.

For opponents of the merger, it helped that net neutrality was no longer such an esoteric concept to the American public. In June, an unlikely individual, John Oliver of HBO, devoted [a lengthy segment](#) to the subject that quickly lit up the Internet, attracting more than eight million views. (“The only two words that promise more boredom in the English language are ‘featuring Sting,’ ” he said of net neutrality.)

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In June, the HBO show “Last Week Tonight With John Oliver” helped popularize net neutrality. HBO

One of Mr. Oliver’s primary targets of ridicule was Comcast. He showed a graphic of the speed of Netflix videos on Comcast before and after it had negotiated a deal for faster service with the cable provider, comparing it to a “mob shakedown.”

Over the months, the chorus of critics of the Comcast deal grew, and grew louder. When the merger was announced in February 2014, Senator Al Franken, a Democrat from Minnesota, was its lone outspoken critic in Congress. Earlier this week, five other senators joined him in urging the Justice Department and the F.C.C. to block the acquisition.

Most media and tech companies have been wary of speaking out publicly against the deal because they did not want to antagonize a company with which they do business. But this did not stop them from making their case privately to government regulators.

The notable exception throughout has been Netflix. The company’s chief executive, Reed Hastings, could not have been clearer about where he stood from the start. A

few days ago, in a conference call with analysts, he said that Netflix's "main goal at this point is to get the government to block the Comcast-Time Warner merger."

Mission accomplished.

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