

Taylor Swift and Beyoncé Go to the Movies



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The New York Times had a short but smart interview with former Assistant Attorney General for Antitrust Makan Delrahim about how the repeal of the 1940s-era *Paramount* antitrust decrees helped Taylor Swift and Beyoncé strike deals to exhibit their concert films directly with AMC -- cutting out the distributors and ensuring a big payout to the stars.

By way of background, the *Paramount* decrees were put in place to settle antitrust actions brought by the DOJ against the Big Five studios, breaking up vertically integrated studios and theatre chains, but also restricting the terms that the studios could impose on independent theatres going forward.

Now, the *Paramount* decrees were already on life support given epochal changes in antitrust law since the 1940s, and its not clear that these deals would have triggered any enforcement action if the decree were still in force, but Delrahim and the Times do highlight that the two superstars' deals with AMC would technically constitute "circuit dealing," meaning booking the film into all of AMC's theaters nationwide, as well as minimum price fixing, setting the ticket prices at \$19.89 and \$22 respectively.

More importantly, the two deals reflect the reason that legal presumptions about exclusivity and pricing terms often don't line up with what is good for consumers or good for an industry. Here, Swift's and Beyoncé's direct deals are fully in line with the goals the DOJ had in mind in

the *Paramount* cases. The two stars reportedly were stifled in discussions with distributors that wanted to release the concert films on their streaming services. So Swift and then Beyoncé went around the studios to reach the market.

Moreover, to ensure that they were fairly compensated in line with how the films perform at the box office, they reportedly negotiated a set (and minimum) ticket price. Today's U.S. antitrust laws would recognize this for what it is -- an efficient way to make a deal where the incentives of all players are aligned. Without exclusivity, wide distribution across all of AMC's theatres, and price-setting, the deal would possibly not make sense to either the stars or AMC. AMC will promote the films extensively, and Swift and Beyoncé will have confidence of wide distribution and a long run. And unlike the Big Five studios in the 1940s, which were entrenched in controlling positions over many years, Taylor Swift and Beyoncé have a single film to sell at one point in time.

This is a good reminder (and a fun one) that, in the U.S. at least, businesses have the flexibility to craft new types of business arrangements to accomplish business goals, even if in the past courts or the DOJ has condemned seemingly similar arrangements. In fact, these days, finding ways to get around established business models is usually seen as an actually pro-competitive act.

Just before Taylor Swift's concert film, "Taylor Swift: The Eras Tour," passed \$100 million in global ticket presales this week, its distributor, AMC Entertainment, announced that it had struck a similar deal with Beyoncé for the singer's Renaissance tour....

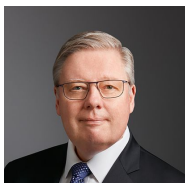
The deals behind them are also unusual. Most big movies are distributed by a major studio. But Swift instead bypassed the studios, produced the concert film herself and sought distribution through AMC, a theater company rather than a movie studio. Theaters will keep less than half of the ticket proceeds, while Swift and AMC are expected to split the remainder. Ticket prices for adults will start at \$19.89, a price that nods to the name of a Swift album....

AMC Entertainment, which stands to profit handsomely, may not have struck these deals if it weren't for a recent tweak to antitrust....

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