

Back when the movement for strong open Internet rules included a company called Google, it was generally agreed among such advocates that clear federal agency provisions against protocol blocking and unreasonable discrimination should be applied to last-mile wireless and wireline broadband connections alike. All these concerns vaporized, of course, once Google made policy peace with its Droid partner Verizon last August.

The two companies then issued their famous Legislative Framework proposal that would deny the FCC even the authority to make hard-and-fast rules on its own. Suddenly the distinct and delicate nature of wireless broadband was discovered. So when the FCC finally issued its long awaited and partially Congressionally disapproved-of net neutrality rules in December, the Commission dutifully exempted wireless from all but the aforementioned transparency provision and a bar on the outright blocking of content.

Now, however, with AT&T's bid to gobble up T-Mobile, all these competition rationales return to haunt their advocates. After all, in 2010 both the Department of Justice and the National Telecommunications Information Agency wondered out loud whether wireless broadband would really make the residential broadband sector more competitive. The government's decision to waive unfair discrimination provisions against wireless broadband was based on a widely vetted evaluation of the competitive nature of that market. Surely, a proposal that would result in one carrier controlling almost 42 percent of wireless subscriber share changes that assessment. The FCC, FTC, Department of Justice, and Congress must now decide how much.