

What The FCC Should Do.

Fortunately, the FCC does not need to do much to solve this problem. The [proposed DoJ Final Judgment] at V.J. states: “No Defendant shall participate in, encourage, or facilitate any agreement or understanding between VZT and a Cable Defendant relating to the price, terms, availability, expansion, or non-expansion of VZT Services or Cable Services.” This is pretty much what the FCC requires as a certification for insulation to the rules. The parties themselves have repeatedly stressed that the JOE will not focus on traditional programming issues (most recently [here](#)).

What the FCC needs to do is emphasize in the Order that it understands the DOJ condition and the representations of the parties to act as a required certification under the ownership rules. The FCC would need to extend this condition to apply to information exchanged between the cable operators as well as between the cable operators and Verizon. That is to say, Comcast and Time Warner Cable would also be prohibited from sharing traditional cable programming information (such as how much either one is paying for ESPN) with each other, as well as with Verizon.

Such a result makes little practical difference to the participants in this proceeding. But it potentially makes a huge difference for the vitality of the media attribution rules. We already have enough problem with existing loopholes undermining the broadcast ownership rules. We don't need to create a new one.