

United States Senate

WASHINGTON, DC 20510

August 7, 2012

The Honorable Eric Holder
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

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The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Attorney General Holder and Chairman Genachowski,

We write concerning the proposed spectrum purchase and other commercial agreements between Verizon Wireless (“Verizon”) and several cable companies that are under review at the Department of Justice, Antitrust Division, and the Federal Communications Commission. As members of the Senate Committees on the Judiciary and Commerce, Science and Transportation, we support robust enforcement of antitrust laws and the efficient utilization of spectrum. We urge the Department and the Commission to evaluate the transactions at issue based upon established facts and legal principles, and to regard with scrutiny speculation about the transactions and the parties that is not borne out by credible evidence.

One of the transactions at issue involves the transfer of spectrum licenses from the cable companies to Verizon. The cable companies have not utilized their licenses to provide services to the public, so the transfer will put this spectrum – a scarce resource in high demand – to better use. We urge the Department and Commission to give strong consideration to that public benefit, in particular in light of the Administration’s stated desire to free more spectrum for use. We believe the public is best served by a free market in spectrum licenses, which depends upon the government freeing spectrum for sale and permitting a robust secondary market to operate.

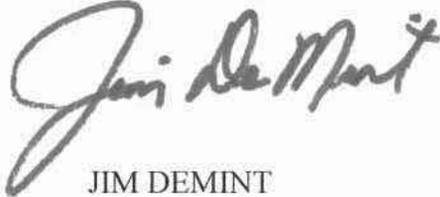
Critics of the transaction have expressed concern about increasing concentration in spectrum license ownership. The Department and Commission should thus take care to evaluate concerns in light of established legal precedent and available evidence about the transaction and the impact it will have. They should also take into account Verizon’s recently-announced plans to auction certain spectrum licenses and swap others with its wireless competitor T-Mobile, should the transaction be approved.

Some have expressed concern about a proposed transaction under which Verizon and the cable companies would partner to offer consumers a “quadruple play” of landline and wireless telephone, Internet and cable television. They speculate that this will inhibit competition in the cable market by reducing the incentive of Verizon’s parent, Verizon Communications Inc., to sell or expand its FiOS service. The Department and Commission should evaluate the economic reality of Verizon Communication’s investment in FiOS based on the evidence before them. They should also consider the additional competition that will result from the potential market entry of the cable companies as wireless providers.

In writing this letter, we are mindful of the proper role of Congress and the authority vested in the Department and the Commission to review the aspects of the transactions before them. We trust that the Department and the Commission will conduct a thorough review of the transactions based on established facts and legal principles.

Sincerely,


JOHN CORNYN
United States Senator


JIM DEMINT
United States Senator


PAT TOOMEY
United States Senator


MIKE LEE
United States Senator


TOM COBURN
United States Senator