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Working Paper

IS COMMUNICATIONS-COMPANY OWNERSHIP OF VIDEO CONTENT A THREAT TO COMPETITION?

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SEPTEMBER 2023

Is Communications-Company Ownership of Video Content a Threat to Competition? Vertical Integration and Net Neutrality[1]

ABSTRACT

For much of the past decade, U.S. communications policymakers have been debating the need for net-neutrality regulation of "dominant" communications-carrier platforms. One of the reasons advanced for regulating these carriers derives from a fear that carriers could reduce competition in the production and distribution of video media through their ownership of media companies, but is there any evidence supporting the notion that vertically integrated communications companies have successfully used such a strategy? This paper provides evidence from the financial markets that carrier integration into video production has not redounded to the benefit of these companies' stockholders. In fact, this integration appears to reduce the value that investors place on such carriers, a result that suggests that the difficulties in managing a large, vertically integrated media and communications company more than offset any benefits (if any) that may derive from anti-competitive behavior induced by vertical integration.

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[1] Preferred citation: Vertical Integration and Net Neutrality, by Robert W. Crandall. Journal of Benefit-Cost Analysis, Fall 2023.

I. Introduction

In most U.S. communities, there is only one traditional wireline telephone company and one cable television carrier. Both compete with wireless carriers, which may or may not be affiliated with the wireline telephone company.[2] Today, all three types of carriers offer Internet, video, and voice services to consumers, and some own content that is delivered over the video and Internet services offered by these platforms. This vertical integration of video content and the video distribution platform raises a fear that the platform owner may reduce competition in either the content or the video-distribution market by favoring its own content and denying this content to rival platforms.

In 2015, the Federal Communications Commission (FCC) imposed anti-discrimination, "net neutrality" regulation on communications carriers that offer broadband Internet service, purportedly to prevent such discrimination, a decision that was strongly urged by President Obama (FCC, 2015). After a change of leadership in 2017, the FCC reversed course, repealing the 2015 rule (FCC, 2017), but it is possible that net neutrality regulation will re-emerge under President Biden's FCC.[3]

The issue of broadband carrier integration into media ownership extended into the antitrust arena when AT&T moved to acquire one of the country's largest producers and distributors of video content, Time Warner, six years ago. The acquisition was challenged by the Department of Justice, which filed suit under the Clayton Act to block the merger (D.D.C., 2018a). The government's economic witness, Carl Shapiro, provided a theoretical model that concluded that AT&T could use its ownership of Time Warner to raise the price of Time Warner content to rival video distribution platforms (Shapiro, 2018), a theory that was emphatically rejected by the court, which ruled in favor of AT&T (D.D.C., 2018b) and was upheld on appeal (D.C. Cir., 2019). An earlier acquisition by Comcast, the country's largest cable company, of NBC-Universal also survived an extended antitrust inquiry (DOJ, 2011).

II. A Natural Experiment

The U.S. communications/media marketplace provides a rather convenient natural experiment to test the effects of vertical integration of carriers into video content. There are two major national telecommunications carriers – AT&T and Verizon – and two major publicly-traded cable television operators – Spectrum and Comcast. Two of these carriers – AT&T and Comcast

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[2] The cable companies also offer wireless services, but they use the three major wireless carriers' networks to deliver these services.

[3] The reimposition of net-neutrality rules has been stalled by the Biden Administration's difficulty in nominating a third Democrat who could be confirmed as Commissioner of the FCC.

– have invested heavily in media content that is distributed over their broadband networks. The other two carriers have generally avoided such investments. Has the integration of content and broadband distribution provided the two integrated carriers opportunities to exploit their position in delivering broadband relative to the two unintegrated carriers?

AT&T and Verizon compete in offering wireline and wireless voice, data (Internet) and video services,[4] but these two companies have pursued very different strategies regarding media (largely, video) content and video distribution. Verizon has concentrated heavily on developing its traditional consumer and business wireline/wireless services. It has divested itself of a large share of its wireline facilities in smaller markets and has built out a substantial fiber-to-the-premises service, called Fios, in its major markets in order to deliver video and high-speed Internet services. It is also one of three major national competitors in the wireless marketplace. For the most part, however, Verizon has declined to integrate backward into video media production. Its media acquisitions have been limited to the acquisition of the online portals, AOL (2015) and Yahoo! (2017). By its own admission, the results of even these limited acquisitions have been disappointing.[5] In 2022, it sold both entities.

AT&T's business strategy has been very different from Verizon's. Until recently, it has largely eschewed the extension of fiber to the premises, opting instead to deliver video by satellite and a more limited fiber deployment to the curb (U-verse).[6] In 2015, it purchased DirecTV, the country's largest satellite broadcaster, for $67 billion. It followed this acquisition with the $85 billion purchase of one of the country's largest media companies, Time Warner, in 2018. The latter acquisition required 18 months to comply with a government antitrust investigation and successfully defend itself against the resulting antitrust suit that alleged that the combination of Time Warner's video media production and AT&T's national video distribution would result in a reduction of competition in one or both sectors (Shapiro, 2018). When finally consummated, the

[4] There are other, largely small struggling wireline telecommunications companies, such as Frontier, Windstream, and CenturyLink (now Lumen). None of these companies competes in the national wireless marketplace. The third national wireless carrier, T-Mobile USA, has recently acquired Sprint, the erstwhile fourth national wireless carrier.

[5] "Our Media business, Verizon Media, experienced increased competitive and market pressures throughout 2018 that resulted in lower-than-expected revenues and earnings. These pressures were expected to continue and have resulted in a loss of market positioning to our competitors in the digital advertising business. Our Media business also achieved lower than expected benefits from the integration of the Yahoo Inc. and AOL Inc. (AOL) businesses." See Verizon Communications Inc. 2020. "Annual Report 2019." 31. Available at https://www.verizon.com/about/sites/default/files/2019-Verizon-Annual-Report.pdf#page=31

[6] AT&T has begun to change this strategy and is now deploying more fiber to connect business customers. See AT&T Inc. 2021. "AT&T and Frontier Communications Strike Network Deal." Available at https://about.att.com/story/2021/att_frontier_deal.html.

Time Warner acquisition provided AT&T with a large number of cable programming networks and a major motion picture producer-distributor, Warner Brothers.

The U.S. cable television sector presents a similar contrast between its two major companies, Charter and Comcast.[7] Charter (now branded as "Spectrum") has steadily built its cable distribution business through a series of acquisitions, the latest of which was Time Warner Cable in 2016, but it has avoided investing in upstream video content.[8] Comcast, on the other hand, acquired one of the largest media companies, NBC-Universal, for a total of approximately $30.5 billion in two stages, the first in 2011 and the second in 2013.[9] This acquisition provided it with a host of cable channels, a major motion picture producer-distributor (Universal), theme parks, the NBC television network and NBC's network-owned television stations. Subsequently, it also bought DreamWorks, a feature-film producer, for $3.8 billion in 2016 (The Economist, 2016) and a major British media company, Sky TV, for $39.4 billion in 2018 (Comcast Corp., 2019).

These two sectors of the U.S. communications industry thus provide an excellent opportunity to determine whether there is any evidence that backward integration into content by a major communications carrier increases its market value, whether by affording the carrier the opportunity to engage in anti-competitive conduct or by simply enhancing efficiency. If the two exercises of acquiring major content providers had provided a competitive benefit to AT&T and Comcast, one would expect their common equities to out-perform those of Verizon and Spectrum, respectively.

A. U.S. Telecommunications: AT&T and Verizon

If AT&T's integration into media content provided anticompetitive opportunities, AT&T's common stock price should have outperformed Verizon's equity price. As Figure 1 shows, however, precisely the opposite is true. Verizon substantially outperformed AT&T for the last twelve years, and this outperformance increased substantially since AT&T acquired Time Warner.[10]

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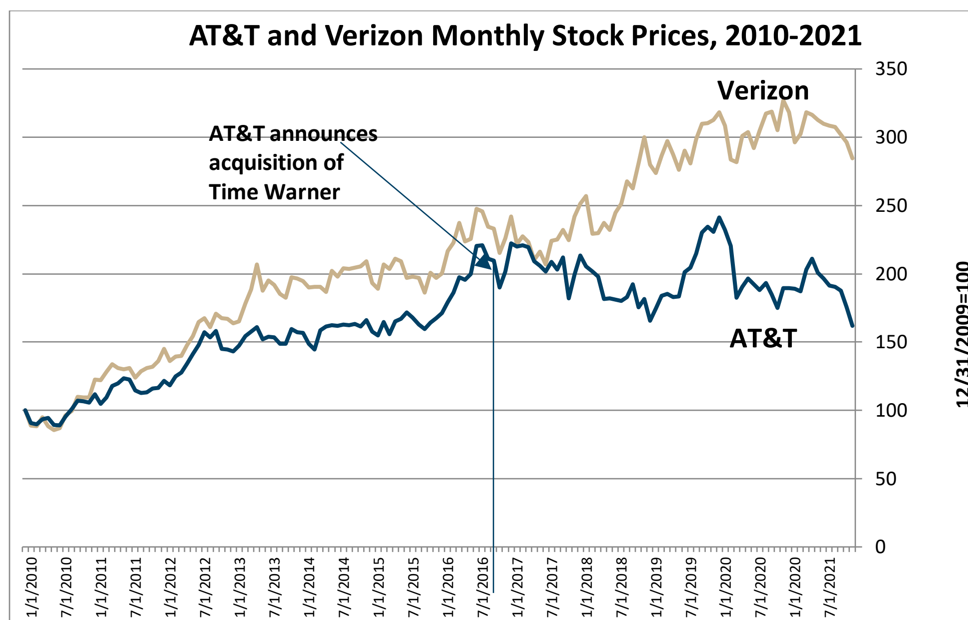
[7] Charter Communications is the parent organization, but its services are marketed under the name "Spectrum." Two other major cable companies, Cox Communications and Altice USA, are not analyzed in this paper for two reasons: (i) Cox is a private company and therefore data on its market value and financial performance are not available; and (ii) Altice is a Netherlands-owned company with cable operations in the United States, but its common equity only began trading in 2017.

[8] It is notable that Time Warner had divested Time Warner Cable in 2009, a decision that was an implicit concession that integration of video content and distribution was not beneficial to its stockholders.

[9] This acquisition was widely viewed as being on terms that were extremely favorable to Comcast. See, for example, Gara, Antoine. 2013. "How Comcast 'Stole' NBCUniversal From General Electric," *Forbes*. Available at https://www.forbes.com/sites/thestreet/2013/02/13/how-comcast-stole-nbcuniversal-from-general-electric/?sh=eddfca96c095.

[10] This paper was written in 2023; therefore, the analysis of financial performance extends only through 2021. Since 2021, the telecommunications and media markets have undergone a major upheaval as video distribution has shifted

Figure 1.



Source: Author's construction based on data from Yahoo ! Finance, available at www.finance.yahoo.com

One might contend that this underperformance by AT&T reflects the fact that by the end of 2021 AT&T had not had sufficient time to exploit its advantages from purchasing Time Warner or that it simply overpaid for Time Warner. Another major reason for AT&T's poor performance is the sharp decline in its satellite TV subscribers; AT&T's total "premium TV" subscribers to its satellite service (DirecTV) and its U-verse wireline service declined by more than one-third between 2015 and 2020 (AT&T Inc., 2017, 2021a). Surely, this precipitous decline in AT&T's pay TV business does not lend credence to the theory that its acquisitions of Time Warner and DirecTV provided it with opportunities to engage in anti-competitive practices in content or distribution markets.

Less than five years after announcing its intention to acquire Time Warner, AT&T conceded that the acquisition was a mistake by announcing that it would spin off its Warner Media subsidiary into a joint venture with Discovery, for $43 billion. In addition, AT&T stockholders would own 71% of the joint venture that became Warner Brothers Discovery (AT&T Inc., 2022). This divestiture followed a similar spin-off of DirecTV in 2021, in which AT&T received $7.3 billion

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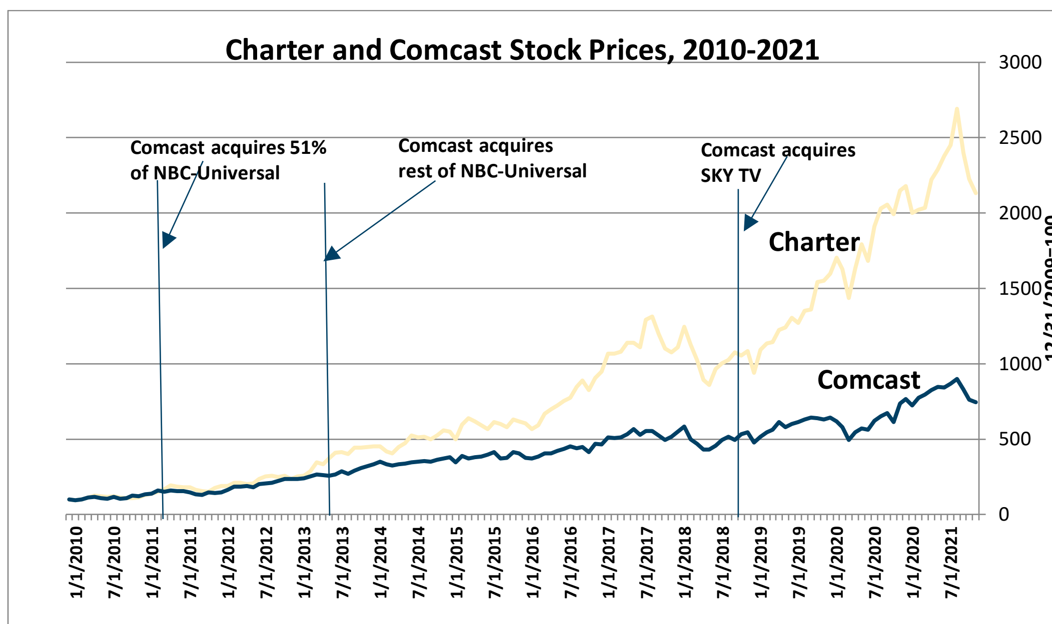
from linear cable to streaming and competition in wireless telecommunications has intensified as the result of T-Mobile's acquisition of Sprint. (See the discussion below,)

for a 30 percent stake in the new company, far less than the $20 billion which it paid for this stake six years earlier (AT&T Inc., 2021b).

B. U.S. Cable Television: Charter (Spectrum) versus Comcast

The performance of Charter and Comcast common equities provides equally strong evidence that backward integration into content does not confer advantages on a video distributor. As Figure 2 shows, Charter, which has no meaningful upstream video media production operations, vastly outperformed Comcast through 2021. Comcast's acquisition of NBC-Universal apparently conveyed no competitive advantage for Comcast over Charter. Note that Charter's stock price began to rise more rapidly than Comcast's as Comcast completed its acquisition of NBC-Universal and then accelerated substantially as Comcast completed its acquisition of Sky TV in October 2018. (Both companies' common equities began to decline steeply in late 2021 as subscribers began to drop their cable subscriptions in favor of video streaming, but Charter's stock has still outperformed Comcast's common equity since 2013.)

Figure 2.



Source: Author's construction based on data from Yahoo! Finance, available at www.finance.yahoo.com.

It is possible that some of the difference between the stock-market performance of AT&T and Comcast and their unintegrated competitors is due to investors' concern over the potentially

adverse effects of net neutrality regulation.[11] If this were a major concern, however, it would be difficult to explain why AT&T offered to buy Time Warner 19 months *after* the FCC decided to regulate net neutrality in 2015. Furthermore, Comcast completed its acquisition of NBC/Universal in 2013 when the debate over the need for net-neutrality regulation was well underway.

C. A Further Analysis

It is also useful to examine the enterprise market value, *i.e.*, the total value, including outstanding equity and debt, of AT&T and Comcast to determine how past purchases of media companies were valued at the end of 2021. These data are shown in Table 1 for each of the major telecommunications carriers, as well as for the largest remaining media company with no telecommunications or cable distribution interests, Walt Disney. Admittedly, Disney's market value does not provide a prefect comparison for AT&T's Warner Media (or for NBC/Universal, below) because Disney has major theme-park and cruise-ship operations that Warner Media lacked. Nevertheless, it is the best choice from among the current large media companies.[12]

From an initial perusal of Table 1, one notices that at the end of 2021, Verizon's enterprise value was greater than AT&T's despite the fact that Verizon had virtually no media operations and its communications operations were only slightly larger than AT&T's. Is it possible that the financial markets assigned very little value to AT&T's Warner Media?

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[11] This possibility was suggested by a referee of an earlier draft of this paper.

[12] Virtually all of these large media companies have evolved from the major motion picture companies of the pre-World War II era – Paramount, Warner Brothers, RKO Pictures, MGM, Twentieth-Century Fox, Columbia, Universal Pictures, United Artists, and Walt Disney. Of these, only Paramount and Disney remained as independent entities in 2021. RKO disappeared into bankruptcy in the mid-20th century. MGM combined with United Artists and was ultimately bought by Amazon. Twentieth Century Fox was acquired by Disney. Columbia is now part of the Sony Corporation. And, of course, Warner Bothers was owned by AT&T, and Universal is still owned by Comcast. Given that Paramount has struggled through a variety of ownership changes, this leaves Disney as the best choice for comparison with Time-Warner and NBC/Universal.

Table 1: Enterprise Value for AT&T, Verizon and Walt Disney 12/31/2021 (billion $)

	AT&T	Verizon	Walt Disney
Enterprise Value	356.51	386.27	323.21
2021 Communications Revenues	135.60	133.61	
2021 Communications EBITDA*	47.94	49.11	
Enterprise Value/ Communications Revs.		2.89	
Enterprise Value/ Communications EBITDA		7.87	
Value of AT&T's Comm. Business at Verizon's Enterprise Value/Communications Revenues	391.88		
Value of AT&T's Comm. Business at Verizon's Enterprise Value/Communications EBITDA	377.07		
Remaining Implied Value of AT&T's Media Operations Based on Communications Revs.	**-35.37**		
Remaining Implied Value of AT&T's Media Operations Based on Communications EBITDA	**-20.56**		
Media Revenues	35.63		72.99 **
Media EBITDA	7.90		10.61 **
Estimated Value of AT&T's Media Business at Walt Disney's Multiple of Media Revenues	157.78		
Estimated Value of AT&T's Media Business at Walt Disney's Multiple of Media EBITDA	240.59		

*EBITDA = earnings before interest, taxes, depreciation, and amortization.
** The revenues and EBITDA for Disney are for the entire company.
Sources: Enterprise values from Yahoo! Finance, available at www.finance.yahoo,com; Revenues and EBITDA data from Company Annual Reports

If investors valued AT&T's communications operations at the same multiple of revenues or cash flows as for Verizon, the value of these communications operations would have been greater than the entire value of AT&T.[13] This would suggest that the financial markets found Warner Media to be worthless at the end of 2021. But AT&T's spin-off of Warner Media, completed in April 2022, netted AT&T's shareholders $43 billion plus 71 percent of the Warner Brothers Discovery, worth $41.5 billion at the time of closing.[14] If Warner Media was worth $84.5 billion, AT&T's communications operations must have been worth substantially less than the multiple of its cash flows and revenues that investors assigned to Verizon.

Moreover, as Table 1 shows, the $84.5 billion total sales price for Warner Media was far less than the value that these operations would have commanded if they had sold at Walt Disney's market-determined multiple of revenues or cash flows, $171 billion and $291 billion, respectively. Admittedly, the latter comparison fails to account for the possibility that Disney's theme-park and cruise-ship operations, even as they rebounded from the effects of Covid, would be worth larger multiples of revenues and cash flows than their media operations. But Time-Warner was spun off by AT&T at a price that was such a low multiple of its 2021 revenues or EBITDA, that one is forced to conclude that AT&T's combination of telecom and media operations were far from value enhancing for its shareholders. Moreover, AT&T severely underperformed Verizon in its overall communications business while it was vertically integrated into video media.

Thus, it is obvious that AT&T failed to convince the capital markets that vertical integration allowed it, whether by competitive or anti-competitive strategies, to extract additional rents from its integration with Time Warner. Some of this failure may be attributed to the steady decline in DirecTV's subscribers under AT&T's watch, a decline that was not arrested in the four years of AT&T's ownership of Time Warner. It is not surprising that, given this bleak performance, AT&T decided to spin off Warner Media into an independent joint venture with Discovery.

A similar analysis can be undertaken for Comcast. The results are shown in Table 2. As of December 31, 2021, Comcast's enterprise value was $313.57 billion. Were Comcast's cable revenues or cable EBITDA valued at the same multiples as Charter's, Comcast's cable operations would have been worth $249.94 billion or $273.49 billion, respectively. This would result in a residual value of $63.63 billion or $40.08 billion, respectively, for all of Comcast's media operations at the end of 2021. But if its media operations were valued at Disney's enterprise value per dollar of EBITDA or revenues, these operations (including the recently acquired Sky-TV)

[13] Seven months of AT&T's revenues and EBITDA from its video operations which were spun off at the end of July 2021, are included in Table 1.

[14] Warner Brothers Discovery common stock closed at $24.43 on April 8, 2022; thus, the value of the 1.7 billion shares acquired by AT&T stockholders was $41.5 billion. The value of AT&T's common equity was virtually the same on April 8, 2022, and December 31, 2022. (Source: Yahoo! Finance)

would have been worth $241.78 billion or $244.55 billion, respectively. The total company would have been worth between $492 billion and $518 billion, far above its enterprise value of $314 billion. In short, at the end of 2021 Comcast's "sum of the parts" appears to have been greater than the value placed by the financial markets on its combined operations – if it is appropriate to measure the value of the parts on the basis of Charter's and Disney's market values.[15]

Table 2.

Table 2: Enterprise Value (12/31/2021) for Major U.S. Cable Companies (billion $)

	Comcast	Charter	Walt Disney
Enterprise Value	313.57	200.79	323.21
2021 Cable Communications Revenues	64.33	51.68	
2021 Cable Communications EBITDA*	28.10	20.63	
Enterprise Value/ Cable Revenues		3.89	
Enterprise Value/ Cable EBITDA		9.73	
Value of Comcast's Cable Business at Charter's Enterprise Value/Cable Revenues	249.94		
Value of Comcast's Cable Business at Charter's Enterprise Value/Cable EBITDA	273.49		
Remaining Implied Value of Comcast's Media Business Based on Cable Revs.	**63.63**		
Remaining Implied Value of Comcast's Media Business Based on EBITDA	**40.08**		
Media Revenues	54.60		72.99

[15] This comparison is more appropriate than the Warner Media/Disney comparison in Table 1 for two reasons: (1) Comcast's media operations are much larger than Warner Media's, approaching the size of Disney; and (2) NBC/Universal is much like Disney, owning a broadcast television network, television stations, and theme parks, but no cruise ships. While NBC/Universal's theme parks are a smaller share of their overall operations than are Disney's parks, there is no reason to suppose that Disney's greater concentration on theme parks provides a boost to its revenue or EBITDA multiple. The largest U.S. independent theme park operator appears to have had lower multiples than Disney prior to the Covid pandemic.

Media EBITDA	8.03		10.61
Estimated Value of Comcast's Media Business at Walt Disney's Multiple of Media Revenues	**241.78**		
Estimated Value of Comcast's Media Business at Walt Disney's Multiple of Media EBITDA	**244.55**		

Sources: Enterprise values from Yahoo! Finance, available at www.finance.yahoo,com; Revenues and EBITDA data from Company Annual Reports

Once again, it appears that vertical integration has not proved to be a lever by which Comcast could improve its performance, whether due to competitive efficiencies or anti-competitive actions.

With only two carriers in each sector, it is difficult to expand the explanatory variables to analyze the differences in market performance between integrated and unintegrated carriers in the United States. But there is another option: look at a different jurisdiction for confirmatory evidence. Canada offers just such an opportunity.

III. Canadian Communications

The communications sector in Canada bears striking a similarity to the U.S. sector. It has two major telecommunications carriers – Bell Canada and TELUS – that offer wireless and wireline services and a third carrier, Rogers, that offers wireless and cable services. In addition, there are three regional cable television companies, Shaw[16], Videotron, and Cogeco, with a variety of portfolios of services and different geographical footprints. Rogers competes with these cable companies through its cable platform, and Bell Canada offers a video satellite service.

The Canadian telecom sector offers a similar opportunity to test the effects of vertical integration on market performance.[17] Bell Canada has an extensive portfolio of video content that it offers through a variety of outlets, including its own satellite service and broadcasting operations, and it owns a share of two major sports franchises. Similarly, Rogers has substantial interests in video

[16] Rogers has recently acquired Shaw, two years after bidding $16 billion for the company in 2021. It was forced by regulators to divest Shaw's small wireless operations to gain regulatory approval. CBC News, 2023."Rogers takeover of Shaw finalized, deal now official," April 3, available at https://www.cbc.ca/news/business/rogers-shaw-merger-official-1.6799566.

[17] The Canadian cable television sector is difficult to analyze because of the diversity of the carriers. Videotron is a private company, thus there are no data on its performance. Shaw is a relatively small cable company in western Canada that had (belatedly) been trying to enter wireless communications before Rogers offered to buy it.

content and sports franchises. TELUS, like Verizon in the United States, has largely avoided investing in video content.

In Canada, network neutrality has been much less of an issue than in the United States. As video services have become more important to carriers, there have been some minor issues involving access to video content, but there is little discussion of explicit net neutrality rules. Rather, the regulator – the Canadian Radio-Television and Telecommunications Regulatory Commission – has been bound by a provision of the Canadian Telecommunications Act:

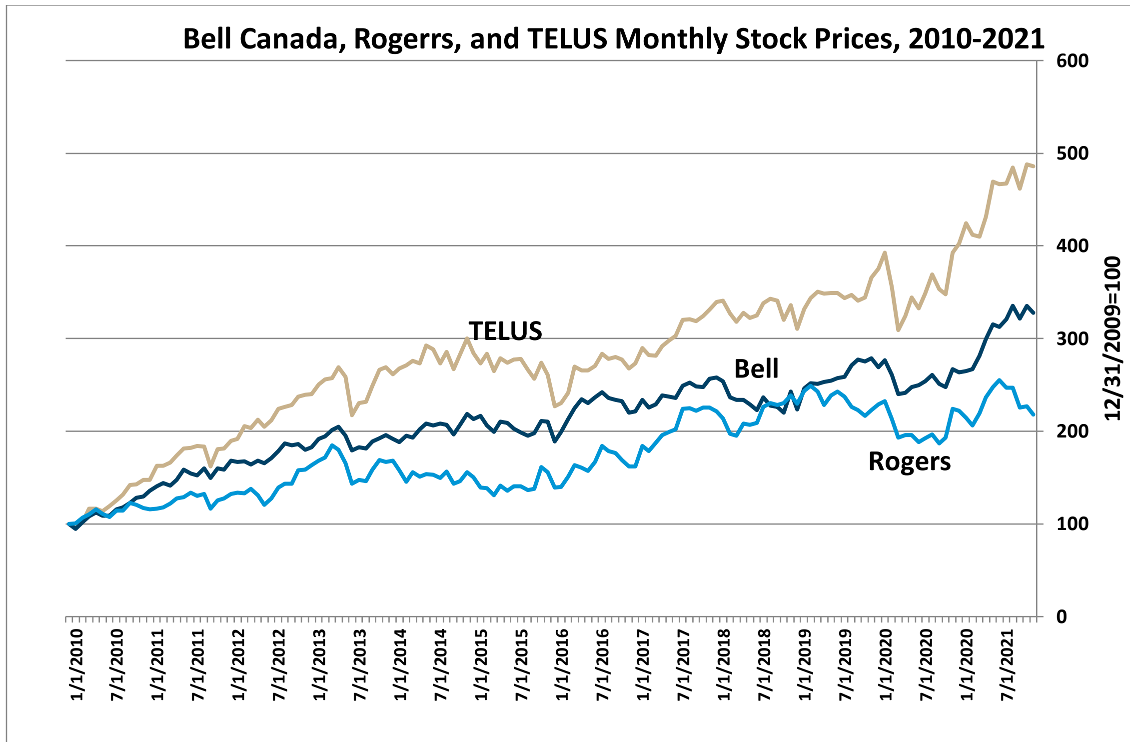
> "No Canadian carrier shall, in relation to the provision of a telecommunications service or the charging of a rate for it, unjustly discriminate or give an undue or unreasonable preference toward any person, including itself, or subject any person to an undue or unreasonable disadvantage." (S.C., 1993).

For the purposes of this paper, the most relevant comparison is between Bell Canada and TELUS. Both offer voice, Internet, and video services, but TELUS has not invested in content or in other video delivery services. Figure 3 clearly shows that TELUS's stock greatly out-performed Bell Canada's (BCE's[18]) common equity through 2021. Italso outperformed Rogers, which has substantial investments in content and (cable) video delivery. As in the case of U.S. telecom companies, there is no evidence that a company's integration into content provides superior stock performance, whether from potential discrimination in favor of its own content or other sources.

TELUS and Bell Canada have similar national wireless operations: TELUS had 9.3 million subscribers at the end of 2021 while Bell Canada had 9.5 million. Bell Canada's cash flow (EBITDA) in 2021was about 50 percent greater than TELUS's cash flow, in large part because it has a much more extensive wireline network than TELUS. Although BCE has a large media presence in Canada, its media operations are not very profitable, accounting for only 7 percent of its cash flows in 2021. As a result, Bell has announced that it is reducing its media staff substantially (Townsend, 2021).

Figure 3.

[18] BCE is the parent company of Bell Canada.



Source: Author's construction based on data from Yahoo ! Finance, available at www.finance.yahoo.com.

The equity market valued Bell Canada's and TELUS's cash flows somewhat differently. TELUS had an enterprise value that was 9.9 times its cash flow at the end of 2021 while BCE's enterprise value was only 9.2 times its cash flow. Thus, it appears that Bell derives no advantage over TELUS from its ownership of media content, a conclusion that it now apparently concedes as it begins to scale back its media operations, much as AT&T has done in the United States.[19]

To summarize, TELUS's common equity has outperformed BCE's equity shares. TELUS has essentially no investments in video content while BCE has substantial investments in media content and broadcasting, though it is now apparently contracting these media operations. Given this performance, it is clear that vertical integration into media content has not provided BCE with an advantage over its unintegrated rival, TELUS.

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[19] A referee of an earlier version of this paper points out that in the period under study, neither Bell nor TELUS has acquired a major media company, unlike their U.S. counterparts, AT&T and Comcast. Thus, one cannot analyze the Canadian carriers' stock performances before and after such acquisitions. Nevertheless, it is obvious from the performance of their common equities that Bell has underperformed TELUS for a considerable period of time.

IV. Preliminary Results from the New Video Streaming Marketplace

The recent shift from linear cable television offerings to streaming services delivered over the Internet provides another opportunity to test for any unfair dominance by broadband Internet carriers. If ownership of the broadband network conveys anti-competitive advantages to carriers in offering video streaming, we should begin to see these carriers surging ahead in the battle for video streaming subscriptions. But the results thus far do not suggest that these carriers are dominating the new video-streaming marketplace.

Netflix, an independent start-up, has been the leader in video streaming for several years, but several other companies are now challenging Netflix, including Disney, Amazon, Apple, and the two media companies that have been owned by communications carriers – NBC-Universal and Warner Media. A recent (July 2023) estimate of the market shares of the leading streaming services finds that Amazon Prime has 21 percent of the U.S. market, followed by Netflix with 20 percent, Max with15 percent, Disney+ with 13perent , and Hulu with 11 percent (Stoll, 2023).

Max is the streaming service of Warner Brothers Discovery, the company that emerged from the spin-off by AT&T of Warner Media. It was integrated with AT&T's Internet services before the spin-off in the second quarter of 2022, but it is now unaffiliated with any Internet provider. It had been increasing its market share steadily before the spin-off, but it had not displaced Netflix, Amazon, or Disney among the leaders in video streaming prior to AT&T's decision to spin it off into a separate company. It is still too early to determine if its independence from AT&T has affected its ability to close this gap.

NBC-Universal's Peacock streaming service is the only streaming service now owned by a vertically integrated U.S. Internet carrier, Comcast. It is not among the leading services in the above list. Comcast reported that, despite substantial growth, Peacock still had only 24 million paid subscribers at the end of the second quarter of 2022 and posted a loss of $651 million during the quarter (3). It is still far from clear how the streaming market will develop, but it does not appear that Comcast's integration of content and distribution provides it with any advantage thus far over its rivals in this market.

It is far too early to determine how the video streaming marketplace will develop. The various streaming services are still experimenting with various business models involving direct subscriber fees and advertising support. As viewers continue their migration from linear cable offerings, streaming services should continue to grow, but enormous uncertainties remain. It is possible that the large digital platforms –Amazon, Google, and Apple – will be the most successful competitors. Google's YouTube operations provide an obvious opportunity for growth. Thus, far, however, there is very little evidence of harmful effects on competition from communications company backward integration into video streaming.

V. Conclusion

It is a theoretical possibility that backward vertical integration by video distribution platforms into content may provide the carriers with opportunities to engage in anti-competitive conduct, but it is difficult to confirm that such integration is value enhancing for telecommunications and cable television operators in the U.S. and telecom carriers in Canada. It appears that such vertical integration actually *reduces* the value of the franchise. Thus, any opportunities for anti-competitive behavior are more than offset by the inability of the integrated carriers to manage their combined operations efficiently. Given that Time Warner voluntarily shed its cable subsidiary in 2009, this result should not be surprising. Nor is it surprising that AT&T has divested its Warner Media subsidiary less than five years after acquiring it. Finally, it should be noted that the foremost player in the U.S. cable television industry for more than four decades, John Malone, did not combine his cable television and media operations into a single entity (Gelles, 2015). His decision not to do so appears to have generated very large returns as he guided an unintegrated Charter Communications on a successful path, as shown in this paper.[20]

References

AT&T Corporation. 2017. "2016 Annual Report." 16. Available at https://investors.att.com/~/media/Files/A/ATT-IR-V2/financial-reports/annual-reports/2016/att-ar2016-completeannualreport.pdf#page=18

AT&T Corporation. 2021a. "2020 Annual Report." 21. Available at https://investors.att.com/~/media/Files/A/ATT-IR-V2/financial-reports/annual-reports/2020/complete-2020-annual-report.pdf#page=22

AT&T Corporation. 2021b. "AT&T & TPG Close DIRECTV Transaction." Available at https://about.att.com/story/2021/att_directv.html.

AT&T Corporation. 2022. "Discovery and AT&T Close WarnerMedia Transaction: Combination of Discovery and WarnerMedia Creates Warner Bros. Discovery, Global Leader in Entertainment and Streaming." Available at https://about.att.com/story/2022/close-warnermedia-transaction.html

Comcast Corporation. 2019. "2018 Annual Report on Form 10-K." 35. Available at https://www.cmcsa.com/static-files/54b28afa-2286-46bc-bca0-e35c9a4be739#page=39

[20] This outperformance has declined in the months since this paper was originally written. Subscribers' shift from ordinary, linear cable video subscriptions to streaming services and aggressive competition in wireless service from T-Mobile have led to a major decline in U.S. cable and telecom stocks since late 2022. Despite this decline, the conclusions advanced above remain valid: the unintegrated carriers' equities have outperformed integrated carriers' equities since the beginning of 2010.

Comcast Corporation. 2023. “Comcast Reports SecondQuarter 2023 Results.” 5. Available at https://www.cmcsa.com/static-files/c1b43699-3333-4230-8577-8506fc236215,

D.C. Cir. (United States Court of Appeals for the District of Columbia Circuit). 2019. *United States v. AT&T, Inc*., No. 18-5214, slip op. at 18 (D.C. Cir. Feb. 26, 2019). Available at https://www.cadc.uscourts.gov/internet/opinions.nsf/390E66D6D58F426B852583AD00546ED6/$file/18-5214.pdf

D.D.C (United States District Court for the District of Columbia). 2018a. *United States v. AT&T Inc.*, Civil Case No. 17-2511 (RJL) (D.D.C. Jun. 12, 2018). Available at https://casetext.com/case/united-states-v-att-inc-2/

D.D.C (United States District Court for the District of Columbia). 2018b. *United States v. AT&T, Inc.*, 310 F. Supp. 3d 161, 184 (D.D.C. 2018). Available at https://casetext.com/case/united-states-v-at-t-inc-2

DOJ (United States Department of Justice). 2011. “Justice Department Allows Comcast-NBCU Joint Venture to Proceed with Conditions.” Available at https://www.justice.gov/opa/pr/justice-department-allows-comcast-nbcu-joint-venture-proceed-conditions

The Economist. 2016. “Comcast buys DreamWorks Animation in an Effort to Rival Disney.” Available at https://www.economist.com/business/2016/04/28/comcast-buys-dreamworks-animation-in-an-effort-to-rival-disney.

FCC (Federal Communications Commission). 2015. “In the Matter of Protecting and Promoting the Open Internet Report and Order on Remand, Declaratory Ruling, and Order.” March 12, 2015. GN Docket No. 14-28. Available at https://docs.fcc.gov/public/attachments/FCC-15-24A1.pdf

FCC (Federal Communications Commission). 2017. “Restoring Internet Freedom, Declaratory Ruling, Report and Order.” November 2, 2017. WC Docket No. 17-108. Available at https://docs.fcc.gov/public/attachments/FCC-17-166A1.pdf

Gelles, David. 2015. “The King of Cable behind a Charter-Time Warner Cable Deal,” *New York Times*. Available at https://www.nytimes.com/2015/05/27/business/dealbook/john-malone-charter-cable.html

S.C. (Statutes of Canada). 1993. Telecommunications Act, Part III, 27(2), (S.C. 1993, c. 38). Available at https://laws-lois.justice.gc.ca/PDF/T-3.4.pdf#page=26

Shapiro, Carl. Expert Report of Carl Shapiro in *United States v. AT&T Inc.*, Civil Case No. 17-2511 (RJL) (D.D.C. Feb. 2, 2018). Available at https://www.justice.gov/atr/case-document/file/1081336/download

Stoll, Julie. 2023. "Market shares of selected subscription video-on-demand (SVOD) services in the United States in 2nd quarter 2023," *Statista,* Available at https://www.statista.com/statistics/496011/usa-svod-to-tv-streaming-usage/.

Townsend, Kelly. 2021. "Bell Media hit with third round of job cuts," *Realscreen*. Available at https://realscreen.com/2021/02/03/third-round-of-job-cuts-hit-canadas-bell-media/.