§ 76.504 Limits on carriage of vertically integrated programming.

(a) Except as otherwise provided in this section no cable operator shall de-
vote more than 40 percent of its activated channels to the carriage of na-
tional video programming services owned by the cable operator or in
which the cable operator has an attributable interest.

(b) The channel occupancy limits set forth in paragraph (a) of this section shall apply only to channel capacity up
to 75 channels.

(c) A cable operator may devote two additional channels or up to 45 percent of its channel capacity, whichever is
greater, to the carriage of video programming services owned by the cable
operator or in which the cable operator has an attributable interest provided
such video programming services are minority-controlled.

(d) Cable operators carrying video programming services owned by the cable
operator or in which the cable op-
erator holds an attributable interest in excess of limits set forth in paragraph
(a) of this section as of December 4,
1992, shall not be precluded by the restric-
tions in this section.

(e) Minority-controlled means more
than 50 percent owned by one or more
members of a minority group.

(f) Minority means Black, Hispanic,
American Indian, Alaska Native, Asian
and Pacific Islander.

Notes 1: Attributable interest shall be de-

fined by reference to the criteria set forth in
Notes 1 through 5 to §76.501 provided how-
ever, that:

(a) Notes 2(f) and 2(g) to §76.501 shall not apply;

(b)(1) Subject to Note 2(1) to §76.501, a lim-
ited partnership interest shall be attributed
to a limited partner unless that partner is
not materially involved, directly or indi-
crectly, in the management or operation of
the video-programming-related activities of
the partnership and the relevant entity so
certifies. An interest in a Limited Liability
Company ("LLC") or Registered Limited Li-
ability Partnership ("RLLP") shall be at-
tributed to the interest holder unless that
interest holder is not materially involved,
directly or indirectly, in the management or
operation of the video-programming-related
activities of the partnership and the relevant
entity so certifies.

(2) In the case of a limited partnership, in
order for an entity to make the certification
set forth in paragraph (b)(1) of this section,
it must verify that the partnership agree-
ment or certificate of limited partnership,
with respect to the particular limited part-
ner exempt from attribution, establishes
that the exempt limited partner has no material involvement, directly or indirectly, in the management or operation of the video programming activities of the LLC or RLLP. In the case of a 10 percent financial interest, or any management interest, in any cable operator providing cable service within the local exchange carrier’s telephone service area.

(c) A local exchange carrier and a cable operator whose telephone service area and cable franchise area, respectively, are in the same market may not enter into any joint venture or partnership to provide video programming directly to subscribers or to provide telecommunications services within such market.

(d) Exceptions:

(1) Notwithstanding paragraphs (a), (b), and (c) of this section, a local exchange carrier (with respect to a cable system located in its telephone service area) and a cable operator (with respect to the facilities of a local exchange carrier used to provide telephone exchange service in its cable franchise area) may obtain a controlling interest in, management interest in, or enter into a joint venture or partnership with the operator of such system or facilities for the use of such system or facilities to the extent that:

(i) Such system or facilities only serve incorporated or unincorporated: 

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§ 76.505  Prohibition on buy outs.

(a) No local exchange carrier or any affiliate of such carrier owned by, operated by, controlled by, or under common control with such carrier may purchase or otherwise acquire directly or indirectly more than a 10 percent financial interest, or any management interest, in any cable operator providing cable service within the local exchange carrier’s telephone service area.

(b) No cable operator or affiliate of a cable operator that is owned by, operated by, controlled by, or under common ownership with such cable operator may purchase or otherwise acquire directly or indirectly more than a 10 percent financial interest, or any management interest, in any local exchange carrier providing telephone exchange service within such cable operator’s franchise area.

(c) A local exchange carrier and a cable operator whose telephone service area and cable franchise area, respectively, are in the same market may not enter into any joint venture or partnership to provide video programming directly to subscribers or to provide telecommunications services within such market.

(d) Exceptions:

(1) Notwithstanding paragraphs (a), (b), and (c) of this section, a local exchange carrier (with respect to a cable system located in its telephone service area) and a cable operator (with respect to the facilities of a local exchange carrier used to provide telephone exchange service in its cable franchise area) may obtain a controlling interest in, management interest in, or enter into a joint venture or partnership with the operator of such system or facilities for the use of such system or facilities to the extent that:

(i) Such system or facilities only serve incorporated or unincorporated:

Note 2 to §76.504: Section 76.1710 contains recordkeeping requirements for cable operators with regard to attributable interests.