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Via ECFS

Marlene Dortch
Secretary,
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: Notice of *Ex Parte* Presentation

Expanding Consumers Video Navigation Choices
MB Docket 16-42

Commercial Availability of Navigation Devices
CS Docket 97-80

Proposed Transfer of Control of Time Warner Cable, Inc.
and Charter Communications Inc. and Proposed Transfer of
Control of Bright House Networks from Advance/New-
house Partnership to Charter Communications Inc.
Docket 15-149

Proposed Assignment or Transfer of Control of Licenses
and Authorizations from Cablevision Service Corporation
to Altice N.V.
Docket 15-257

Dear Ms. Dortch:

On October 17, 2016, Andrew Jay Schwartzman, counsel to Zoom Telephonics, Inc. (“Zoom”), met with Jessica Almond, Legal Advisor to the Chairman and John Williams, Senior Counselor to the General Counsel. (Although the meeting was limited to discussion of Docket 16-42, out of an abundance of caution, this notice is also being filed in Dockets 15-149 and 15-257.) In the meeting, Mr. Schwartzman repeated arguments Zoom has presented with respect to the Commission’s authority to require that the rates for cable modem leases be separately stated and not-subsidized.

First, Mr. Schwartzman pointed out that there had been no dispute as to whether cable modems are “navigation equipment” within the meaning of Section 629 and adverted to Zoom’s written response to Charter’s newly-presented claim that Section 629 no longer applies to cable

modems because of the Commission's reclassification of broadband Internet access service as a Title II service.

Second, Mr. Schwartzman responded to arguments that the Commission lacks authority to enforce Section 629 in the absence of local rate regulation. He pointed to the plain language of Section 629, which makes no reference to rate regulation. To the extent that legislative history should be considered, Mr. Schwartzman explained that cable modem leases have never been subject to local rate regulation and observed that the Commission has determined that there the market for broadband Internet is not effectively competitive.

Third, Mr. Schwartzman reiterated that a non-subsidization rule need not be prescriptive. He said that Zoom has argued that, at the very least, the Commission should promulgate a rule that specifies that the rates not be subsidized and that it enforce alleged violations with a case-by-case complaint process that presumes that below market rates are subsidized.

Respectfully submitted,



Andrew Jay Schwartzman
Counsel for Zoom Telephonics, Inc.

cc. Jessica Almond
John Williams