Andrew Jay Schwartzman
600 New Jersey Avenue, NW
Room 312
Washington, DC 20001
(202) 662-9170
AndySchwartzman@gmail.com

September 22, 2016

Via ECFS

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

RE: Notice of *Ex Parte* Presentations

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/Newhouse 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 September 21, 2016, Frank Manning, President and CEO of Zoom Telephonics, Inc. ("Zoom"), and Andrew Jay Schwartzman, counsel to Zoom spoke by telephone with Matthew Berry, Chief of Staff to Commissioner Pai.[1]

Zoom first addressed the argument that Charter Communications, Inc. ("Charter") presented for the first time in a meeting with Mr. Berry on September 14, 2016. Opposing Charter's new contention, Zoom explained that the remedial condition associated with approval of Charter's acquisition of Time Warner Cable and Bright House Networks adopting Charter's

[1]Although the presentation was expressly limited to Docket 16-42, out of an abundance of caution, this notice is also being filed in Dockets 15-149 and 15-257.

offer to provide discounted Internet service to low-income consumers, including free cable modems, is not at all inconsistent with a general prohibition on requiring separate line item billing at a non-subsidized price for other consumers. (Nothing in the condition precludes including a line item showing what the ordinary price for leasing a modem would be and an indication that the consumer is receiving a discount in that amount.) The very premise of the condition is that expanding broadband deployment to these users justifies allowing subsidized pricing for Internet service. In this context, providing cable modems to consumers unfamiliar with Internet service and who may well be first-time users, facilitates the goals of the remedial condition. Where, as here, the charge to consumers is capped, there is essentially no difference between charging one overall price or breaking it into two elements. It is noteworthy in this regard, that it was Charter which proposed the discounted offering, so the use of the word "required" in the condition is hardly a prohibition in the sense now suggested by Charter.

Zoom then stressed the importance of requiring a non-subsidized price as well as separate line item billing. While Zoom's immediate concern is cable modems, the same issue applies to set-top boxes as well. It explained that the record contains suggestions on efficient means to enforce that requirement, including a case-by-case enforcement mechanism incorporating a presumption that prices below a certain level were subsidized. Absent such a directive, cable operators will be able to provide "free" or nominally priced equipment. Thus, they might reduce the price of a $10.00 lease to a subsidized price of $1.00, and increase the price of cable or video service by $8.00. That way, they could tell their customers their total monthly bill was going down by $1.00 per month. Once they undermine the existing robust retail market for cable modems or block the creation of a new market for set-top boxes, they will then have the market power to raise prices at will.

Respectfully submitted,

Andrew Jay Schwartzman
Counsel for Zoom Telephonics, Inc.

cc. Matthew Berry