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January 22, 2015

Marlene Dortch  
Secretary, Federal Communications Commission  
445 12<sup>th</sup> Street, NW  
Washington, DC 20554

RE: Docket 14-57  
Notice of Oral Ex Parte Communications  
Erratum

Dear Ms. Dortch:

On January 20, 2015, Zoom Telephonics, Inc. (“Zoom”) submitted a notice of oral ex parte communications in Docket 14-47.

It has come to Zoom’s attention that the attachment to the notice was inadvertently omitted.

The notice is resubmitted herewith with the missing attachment.

Zoom regrets the error.

Respectfully submitted,



Andrew Jay Schwartzman  
Counsel to Zoom Telephonics, Inc.

cc. Maria Kirby  
Adonis Hoffman  
Valery Galasso  
Nicholas Degani  
Robin Colwell  
Yosef Getachew

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Marlene Dortch  
Secretary, Federal Communications Commission  
445 12<sup>th</sup> Street, NW  
Washington, DC 20554

RE: Docket 14-57  
Notice of Oral Ex Parte Communication

Dear Ms. Dortch:

On January 15, 2015, Frank Manning, President and CEO of Zoom Telephonics, Inc. (“Zoom”), Hume Vance, Zoom’s Director of Cable Modem and Firmware Engineering, Zoom Telephonics, Inc. and the undersigned held meetings with Valery Gallasso, Special Advisor and Confidential Assistant to Commissioner Rosenworcel, Nicholas Degani, Legal Advisor to Commissioner Pai, and Commissioner Clyburn, her Chief of Staff and Senior Legal Advisor Adonis Hoffman and her intern Yosef Getachew. On January 16, 2015, Mr. Manning, Mr. Vance and the undersigned met with Robin Colwell, Chief of Staff and Legal Advisor to Commissioner O’Reilly and Maria Kirby, Legal Advisor to the Chairman.

Zoom has filed a petition to deny in Docket 14-57, arguing that approval of the transfer of cable systems to Charter Communications, Inc. is contrary to Section 629 of the Telecommunications Act, the 2005 Internet Policy Statement and the public interest standard. This transfer would result in millions of customers being shifted from Comcast and Time Warner Cable to Charter, a company with a history of denying many of its customers the right to attach their own cable modem or to achieve a savings by attaching their own cable modem.

In the meetings, Zoom distributed the attached presentation. They explained that for over two years, from June 2012 to August 2014, Charter expressly prohibited many of its customers from buying cable modems in the retail market and attaching them to Charter’s network. (Attachment, page 4.) In addition, at all times since June, 2012 through to the present Charter has bundled the charge for leasing a cable modem with the charge for its Internet services, so its customers have no financial incentive to purchase their own modems.<sup>1</sup> From October 2012 to date Zoom has been trying to get Charter to change its policy so that Charter would have a reasonable certification process for customer-owned cable modems and would separately state

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<sup>1</sup>See Attachment, page 4. (“As a Charter Internet customer, you are offered a compliant modem without any additional charge when you subscribe to a New Pricing and Packaging service tier.”)

on a customer's bill and on its website a non-subsidized cost for cable modem rental. On August 22, 2014, three days prior to the deadlines for filing petitions to deny in Docket 14-57, Charter changed its website to articulate a new policy under which its customers would be allowed to use "compliant device[s]) of their own. The website listed a number of "compliant" modems, but most of them are obsolete devices no longer available in the retail market. Notably, the modems supplied by Charter do not have integrated wi-fi routers or 802.11ac capability.

Zoom reviewed the provisions of Section 629 of the Communications Act (Attachment, page 1) (which the Commission has expressly held to apply to cable modems<sup>2</sup>), 47 CFR §§76.1201-1202 (which give customers the right to attach their own non-harmful devices to cable networks), 47 CFR §76.1206), (Attachment, page 2) (which requires that rates for devices be separately stated and not subsidized), the 2005 Internet Policy Statement (Attachment, page 3) (which declares a policy that "consumers are entitled to connect their choice of legal devices that do not harm the network"), and the public interest standard.

Zoom also described its efforts to obtain Charter's cooperation in creating a certification program for cable modems. It explained that over the last two years it has requested Charter to articulate technical standards for a certification program, that Charter initially set out requirements that no cable gateway in the consumer market could pass, and that it continues to insist on requirements that no other cable operator has imposed and which, significantly, the modems Charter currently lists as "compliant" could not meet. Moreover, Zoom explained, none of the modems Charter now lists as "compliant" have 802.11ac capabilities and few have integrated wi-fi routers.

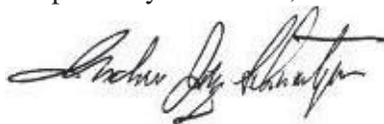
Apart from the legal requirements to allow attachment of customer-owned devices and to separately state an unsubsidized charge for leasing a cable modem, Zoom argued that Charter's policies fundamentally contradict Commission policy and the public interest standard. Consumers lack the benefits that come from a competitive market, which reduces prices and fosters technological innovation. Retailers also suffer because their customers are unable to buy modems from them, or may be told that they cannot attach a modem which they had purchased with a good faith understanding that they have a right to attach their own modem. This results in reduced sales by retailers in Charter's regions, and also presents an inventory and returns problem given that Best Buy, Walmart and others have stores in Charter's regions.

In light of these circumstances, Zoom asked that, in the event that the Commission is disposed to approve the transactions proposed in Docket 14-57, that it condition any such approval upon requirements that Charter separately state an unsubsidized price for leasing a cable modem, and that it not unreasonably refuse to allow attachment of non-harmful cable modems to its network.

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<sup>2</sup>*In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996*, 13 FCC Rcd 14775, 14776 (1998).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Andrew Jay Schwartzman". The signature is fluid and cursive, with a large initial "A" and "S".

Andrew Jay Schwartzman  
Counsel to Zoom Telephonics, Inc.

cc. Participants

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ZOOM TELEPHONICS, INC.  
PRESENTATION TO THE  
FEDERAL COMMUNICATIONS COMMISSION

Page 1	Section 629(a) of the Communications Act, 47 USC §549(a)
Page 2	47 CFR §76.1206
Page 3	Excerpts from 2005 Internet Policy Statement, 20 FCC Rcd 14986
Page 4	Charter website as of August 21, 2014
Page 5	Charter website as of August 22, 2014

Section 629(a) of the Communications Act  
47 USC §549(a)

a) Commercial consumer availability of equipment used to access services provided by multichannel video programming distributors

The Commission shall, in consultation with appropriate industry standard-setting organizations, adopt regulations to assure the commercial availability, to consumers of multichannel video programming and other services offered over multichannel video programming systems, of converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, from manufacturers, retailers, and other vendors not affiliated with any multichannel video programming distributor. Such regulations shall not prohibit any multichannel video programming distributor from also offering converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, to consumers, **if the system operator's charges to consumers for such devices and equipment are separately stated and not subsidized by charges for any such service.**

47 CFR §76.1206

§ 76.1206 Equipment sale or lease charge subsidy prohibition.

Multichannel video programming distributors offering navigation devices subject to the provisions of § 76.923 for sale or lease directly to subscribers, shall adhere to the standards reflected therein relating to rates for equipment and installation and shall separately state the charges to consumers for such services and equipment.

2005 Internet Policy Statement  
20 FCC Rcd 14986

Paragraph 2:

In section 230(b) of the Communications Act of 1934, as amended (Communications Act or Act), Congress describes its national Internet policy. Specifically, Congress states that it is the policy of the United States “to preserve the vibrant and competitive free market that presently exists for the Internet”<sup>6</sup> and “to promote the continued development of the Internet.”<sup>7</sup> In section 706(a) of the Act, Congress charges the Commission with “encourag[ing] the deployment on a reasonable and timely basis of advanced telecommunications capability” -- broadband -- “to all Americans.”

Paragraph 4:

[T]o ensure that broadband networks are widely deployed, open, affordable, and accessible to all consumers, the Commission adopts the following principles:

- *To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet*, consumers are entitled to access the lawful Internet content of their choice.
- *To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet*, consumers are entitled to run applications and use services of their choice, subject to the needs of law enforcement.
- *To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet*, **consumers are entitled to connect their choice of legal devices that do not harm the network.**
- *To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet*, consumers are entitled to competition among network providers, application and service providers, and content providers.

## Compliant and Non Compliant Modems/Gateways on Charter's Network

**Note:** Effective June 26, 2012 For new Internet Customers and customers switching to our New Package Pricing, we will no longer allow customer-owned modems on our network. In order to provide our customers powerful and reliable Internet service at a great value, we will provide modems included in Internet pricing under our New Package Pricing.

### General Info

[Compliant General Info](#)

[Non compliant General Information](#)

[Customer Notification](#)

### Identifying Your Equipment

[Cable Modems](#)

[Routers](#)

[Gateway](#)

### Quick Links

[Modem Replacement Program](#)

[Restarting Your Cable Modem](#)

[Charter WiFi](#)

[Customer Owned Wireless Home Networking](#)

### Compliant/Supported Modems/Gateways General Information

Charter Internet subscribers are required to use a compliant device in order to use the Charter network without interruption and receive optimal service performance. Devices identified as non compliant are subject to intermittent or no service due to network updates. Charter continues to provide customers with the most up-to-date equipment, compliant with our network, to ensure services work as intended.

Any device considered non compliant must be replaced with a compliant device.

Modems and gateways identified as non compliant include devices that are phased out due to older versions of firmware that are unable to receive updates.

Charter Internet is compatible with most DOCSIS 2.0 and DOCSIS 3.0 devices. Please note that Charter's Plus, Max (Grandfathered) and Ultra Speeds require a DOCSIS 3.0 device to ensure you experience the full upload and download speeds that those packages offer.

### Non compliant/Unsupported Modems/Gateways General Information

Modems and gateways installed with outdated firmware that have been identified and that cannot be updated.

If you attempt a self install and our network identifies your modem or gateways to be incompatible you may not be able to complete your installation. Your device is recognized automatically by the provisioning process (<https://install.charter.com/>) and will not be provisioned. If this happens you will presented the following on-screen message:

*Activation of this device has been prohibited. Firmware on the device does not function properly with the Charter network and cannot be upgraded. Please use a different device or contact Charter at 888-438-2427.*

The non compliant device cannot be installed on the Charter network and you must install and use a more compliant modem or gateway device.

**Support**
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**Compliant Modems on Charter's Network****General Information**

Charter Internet customers are required to use a compliant device in order to use the Charter network without interruption and receive optimal service performance. Devices identified as not compliant may be subject to intermittent or no service.

**Compliant Modems**

As a Charter Internet customer, you are offered a compliant modem without any additional charge when you subscribe to a New Pricing and Packaging service tier. You may also choose to buy a modem that is certified by Charter to work with your Internet service.

Below are the modems that are compliant with all current Charter Internet tiers.

<b>Vendor</b>	<b>Model</b>
ARRIS	TM802G
ARRIS	TM804G
ARRIS	TM822A
ARRIS	TM822G
ARRIS	TM902A
ARRIS	TM1602A
CISCO SYSTEMS	DPC3008
CISCO SYSTEMS	DPC3010
CISCO SYSTEMS	DPC3208
CISCO SYSTEMS	DPC3216
CISCO SYSTEMS	DPC3825
MOTOROLA	SB6141
MOTOROLA	SBG6580
NETGEAR	CG3000D
UBEE	DDW3612

Below are the modems that are compliant with Charter Internet tiers up to 60Mbps

<b>Vendor</b>	<b>Model</b>
MOTOROLA	SB6120
MOTOROLA	SB6121
UBEE	U10C035
SMC NETWORKS	SMCD3GN-RES