January 4, 2016

By ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: Notice of Ex Parte Letter, Applications of Charter Communications, Inc., Time Warner Cable Inc., and Advance/Newhouse Partnership for Consent to Assign or Transfer Control of Licenses and Authorizations, MB Docket No. 15-149

Dear Ms. Dortch:

In accordance with the Protective Order in the above-captioned proceeding, DISH Network Corporation ("DISH") submits the attached public, redacted version of its ex parte letter dated January 4, 2016. DISH has denoted with “{BEGIN HCI END HCI}” symbols where Highly Confidential Information has been redacted. The designated Highly Confidential Information in the letter was taken from or derived from Highly Confidential Information in the Applicants’ filings. A Highly Confidential version of this letter is being simultaneously filed with the Commission and will be made available pursuant to the terms of the Protective Order.

Please contact me with any questions.

Respectfully submitted,

[Signature]

Andrew Golodny
Counsel for DISH Network Corp.

Enclosure

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Re: Applications of Charter Communications, Inc., Time Warner Cable Inc., and Advance/Newhouse Partnership for Consent to Assign or Transfer Control of Licenses and Authorizations, MB Docket No. 15-149

Dear Ms. Dortch:

DISH Network Corporation (“DISH”) files this letter to correct the Applicants’ continued misrepresentations of Time Warner Cable’s (“TWC’s”) pre-merger network buildout plans. In their application, Charter and TWC tried to claim TWC’s complete digital transition as a key benefit of the merger.\(^1\) In response, DISH presented extensive evidence that TWC already had plans to complete its digital and TWC Maxx transition \{{ BEGIN HCI \ END HCI }\} the Applicant’s 30-month deadline.\(^2\)

Despite being presented with documentary evidence detailing these plans, as culled from Applicants’ own files, the Applicants have continued to insist that such investments would not


occur but for the merger. In an ex parte letter, TWC asserted that its Maxx program was intended to upgrade only \{BEGIN HCI \} of TWC’s systems to all-digital and only \{BEGIN HCI \} of its systems to increased broadband speeds, and that \{BEGIN HCI END HCI \} Charter repeated that claim in its December 4, 2015 submission to the Commission.4

But TWC’s strategy documents indicate that TWC had \{BEGIN HCI END HCI \} And TWC’s assertion \{BEGIN HCI END HCI \} is directly belied by the sworn deposition of a TWC senior executive given to the Department of Justice during the Comcast/TWC transaction proceeding. In that testimony, \{BEGIN HCI

END HCI \} The TWC executive responded:

\{BEGIN HCI

END HCI \}6

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3 See Letter from Matthew A. Brill, Counsel to TWC, to Marlene Dortch, FCC, MB Docket No. 15-149 at 2 (Nov. 19, 2015).

4 Ex Parte Letter from John L. Flynn to Marlene Dortch at 8 (Dec. 4, 2015).

5 \{BEGIN HCI END HCI \}

TWC’s plan was thus not a year plan extending to the end of and to TWC’s systems. It was a and its systems. This fact, conveniently denied by the Applicants now, is corroborated not only by the TWC executive’s testimony, but also by abundant contemporaneous, pre-merger TWC strategy and budget materials, as explained below.

One of TWC’s own exhibits submitted in response to the FCC’s Information Request shows that The same exhibit shows that Consistent with the deposition testimony, the exhibit lays out a plan Similarly, As far back as 2013, TWC contemplated This evidence impeaches thoroughly TWC’s current litigation position that

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8 Id.
9 Id.
10 Id.
11 Ex Parte Letter from Matthew A. Brill to Marlene Dortch at 2 (Nov. 19, 2015).
Contrary to TWC’s claims, the use of HCI in certain TWC materials does not support the Applicants’ theory that TWC’s transition plans were simply speculation. What uncertainty is shown by the documents was focused on the HCI. No uncertainty emerges about HCI. This is made clear by HCI.\footnote{13} The HCI for Maxx was also reflected in contemporaneous budget projections. In November 2014, HCI\footnote{14} Indeed, it was only recently (first with the attempted merger with Comcast and now with Charter) that HCI\footnote{15} For example, HCI\footnote{16} (Continued…)
The extensive documentary evidence described above shows that Such upgrades cannot therefore be claimed as benefits of the proposed merger with Charter.

Sincerely,

Pantelis Michalopoulos
Stephanie A. Roy
Counsel for DISH Network Corporation