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REDACTED – FOR PUBLIC INSPECTION

February 17, 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, NVIDIA Corporation submits the attached public, redacted version of its *ex parte* letter dated February 17, 2016. Redacted Highly Confidential information is denoted with “**{{BEGIN HCI END HCI}}**.” The designated Highly Confidential Information 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.

Please contact me with any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M.C. Erickson", with a long horizontal flourish extending to the right.

Markham C. Erickson
Counsel for NVIDIA

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:

Representatives of NVIDIA Corporation (“NVIDIA”) on Friday, February 12, 2016 met with representatives of the Commission staff copied below to discuss how Charter Communications, Inc. purposefully blocks use of the NVIDIA SHIELD Android TV console (“SHIELD TV”), as well as all other devices that use the Android TV operating system. Participating for NVIDIA by teleconference were: Ned Finkle, Vice-President of External Affairs, Ali Kani, General Manager, and Marlon Alvarado, Sr. Director, Legal. The undersigned participated in person. The discussion highlighted points made by NVIDIA in its January 20, 2016 *ex parte* submission,¹ as well as the items described in this letter.

Charter today blocks SHIELD TV and other devices that run on the Android TV operating system. It does so by refusing to authenticate TV Everywhere applications (“TVE apps”), which effectively precludes a Charter subscriber from accessing content through an application that has been uniquely designed by programmers to work with SHIELD’s operating

¹ Letter from Markham C. Erickson, Counsel for NVIDIA, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 15-149 (Jan. 20, 2016).

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system and for which consumers already have paid through their cable subscriptions with Charter. Currently, these apps include:

- HBO GO Android TV
- Showtime Anytime
- FXNOW
- Fox Sports GO
- Fox NOW
- HGTV Watch
- Watch Food Network
- Watch Travel Channel
- STARZ Play

TVE apps generally are not blocked on NVIDIA's tablet device or Apple's iPad, which each use a different operating system than SHIELD TV. And, SHIELD TV is generally not blocked on other MVPDs' systems, including Time Warner Cable Verizon FiOS, Cox, DISH, Bright House Networks, Cablevision, SuddenLink and AT&T U-Verse. When authentication issues arise with these other cable systems, they have been responsive in resolving the problem. Charter has declined to work with NVIDIA to address—or even explain—the problem.

Charter makes two arguments in response to NVIDIA's *ex parte*. First, Charter blames the programmers by implying that the authentication problem rests with the programmers.² Charter is wrong. Programmers have specifically built and designed the blocked TVE apps for the SHIELD TV operating system. Further, the programmers have placed these apps in the Google Play Store for download and use by SHIELD TV customers.³ In addition, when a Charter subscriber is unable to authenticate her TVE app with SHIELD TV, the programmer

² Letter from Samuel L. Feder, Counsel for Charter, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 15-149 at 3 (Feb. 9, 2016) (implying that programmers have not contacted Charter about “implement[ing] an authentication procedure and identify[ing] the devices on which they would like the app to run.”).

³ See Google Play Store, Apps for Android TV, https://play.google.com/store/apps/collection/promotion_3000e26_androidtv_apps_all?hl=en

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makes clear that Charter is responsible for the problem and encourages the user to contact Charter and ask that Charter support authentication.⁴

Charter's second argument is that **{{BEGIN HCI**

END HCI}}

This argument is specious. **{{BEGIN HCI**

END HCI}}

⁴ See HBO GO Help Center, <https://help.hbogo.com/hc/en-us/articles/216104167-I-am-trying-to-activate-HBO-GO-on-my-Android-TV-and-Charter-is-not-listed-Why> (“We encourage you contact Charter and request that they add support for HBO GO on Android TV.”).

⁵ Letter from Samuel L. Feder to Marlene H. Dortch, Secretary, MB Docket No. 15-149 at 3 (Feb. 9, 2016).

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NVIDIA repeated its request that if the transaction is approved, the Commission impose conditions that would prohibit Charter from continuing to restrict, degrade, and interfere with the use of SHIELD TV and other lawful, non-harmful devices.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. C. Erickson', with a long horizontal flourish extending to the right.

Markham C. Erickson
Counsel for NVIDIA

CC: Elizabeth McIntyre
Owen Kendler
Kiley Naas
Jessica Campbell
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Elizabeth Cuttner
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Lyle Elder