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February 24, 2016

BY ECFS

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

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:

Chip Pickering, Chief Executive Officer of INCOMPAS, spoke via teleconference with Jon Sallet, Commission General Counsel on February 22, 2016 regarding the above-referenced transaction.

Mr. Pickering noted that despite the large volume of *ex parte* submissions from Charter since its initial merger application was filed, Charter has not yet provided material evidence that the transaction as proposed is in the public interest or would promote competition. In fact, as INCOMPAS has demonstrated, the pass-through of programmer cost savings to consumers—which is Charter's primary claim to a public interest benefit—is insufficient for the Commission to find that the merger would be in the public interest.[1] Moreover, by increasing the video programming purchasing cost disadvantage of potential broadband entrants compared to New Charter, the merger would have the added effect of erecting further barriers to broadband deployment and investment. Charter has not addressed how the merger would increase local broadband competition or mitigate the harms to competition identified by INCOMPAS.[2]

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[1] Letter from Markham C. Erickson, Counsel to INCOMPAS, to Marlene H. Dortch, Secretary, MB Docket No. 15-149 at 6-7 (Feb. 12, 2016).

[2] *See* David S. Evans, *Economic Analysis of the Impact of the Proposed Merger of Charter, Time Warner Cable, and Bright House Networks On Video Programming Prices And Broadband*

(Continued…)

Charter's claim that the merger would create efficiencies that would make it more likely for it to build out its broadband network does not mitigate the merger's harm to local broadband competition. As the incumbent residential broadband cable provider in its footprint, New Charter would not invest in build out to compete against another incumbent broadband cable provider. Any future build-out only would cement the advantages of its incumbency. In comparison, the proposed remedy of a video programming purchasing cooperative would incentivize companies to compete against incumbent cable broadband providers, resulting in increased competition in residential broadband access and MVPD services.

In a recent *ex parte* letter, Charter acknowledges that lower costs (*i.e.*, "synergies") "will improve investment payback horizons" and lead to increased buildout.[3] INCOMPAS agrees with the relationship between lower costs and great investment incentives, which is why a video programming purchasing cooperative would lead to increased broadband investment and competition.

* * *

We respectfully urge the Commission to deny the Transaction, as proposed.

Sincerely,

Markham C. Erickson
Counsel for INCOMPAS

Entry and Competition: A Response To Professor Katz ("Evans Declaration II") at 4 (February 12, 2016).

[3] Letter from John L. Flynn, Counsel for Charter, Marlene H. Dortch, Secretary, MB Docket No. 15-149 at 2 (Feb. 16, 2016).