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Via ECFS

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

RE: 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 March 3, 2016, Andrew Jay Schwartzman, counsel to Zoom Telephonics, Inc. (Zoom) in the above-captioned matter, met with Commissioner Clyburn, her Acting Media Legal Advisor Holly Saurer and her intern Karl Gerner.

The purpose of the meeting was to discuss issues Zoom has raised in its Petition to Deny in Docket 15-149. Zoom did not discuss any specific issues relating to Zoom's Petition to Deny in Docket 15-257. However, because similar issues have been raised in Docket 15-257, out of an abundance of caution, this notice is being filed in that docket as well.

In the meeting, Mr. Schwartzman reviewed the arguments contained in Zoom's

petition to deny the applications of Charter Communications, Inc. (Charter) to acquire Time Warner Cable Inc. (TWC) and Advance/Newhouse Partnership (BHN). He described the background of the robust and healthy retail market for cable modems and contrasted it with the difficulties that have been encountered in trying to develop a retail market for set-top boxes. Mr. Schwartzman explained that the other major MSOs facilitate attachment of customer-owned modems and that they separately state a price for leased cable modems. He pointed out that Charter has stated in its Public Interest Statement that it intends to extend Charter's current cable modem policies to Time Warner Cable (TWC) and Bright House (BHN).

With respect to Charter's pricing policies in which it charges a single bundled price for leasing cable modems and Internet service, Mr. Schwartzman pointed out that there is no dispute that cable modems are covered by Section 629 of the Communications Act.¹ Charter's characterization of its policy as providing a modem for "free" or "at no charge" amounts to a price of zero for cable modems, which is clearly a subsidized price. However, Mr. Schwartzman explained, Charter has taken the position that it can bundle the two offerings because it is not prohibited by 47 CFR §76.1206. He argued that Zoom has presented an alternate, and better, reading of Section 76.1206 and pointed out that it makes little sense to construe that provision in a manner which ties cable modem pricing practices to 47 CFR §76.923, a rule which relates only to the pricing of video services.

Mr. Schwartzman emphasized that, even if the Commission chose not to rely solely upon Section 629 in its assessment of the pending applications, it has ample authority under Sections 201 and 202 of the Communications Act, as well as the public interest standard to require that Charter separately state an unsubsidized price for leasing of cable modems and Internet service. He noted that all the reasons that have impelled the Commission to seek a competitive market for set-top boxes apply to the cable modem market, and allowing Charter to extend its policies to TWC and BHN would undermine the competitive market for cable modems.

Mr. Schwartzman made brief reference to the fact that Charter has unduly restrictive policies with respect to attachment of customer-owned cable modems on its

¹"Section 629 covers not just equipment used to receive video programming, but also equipment used to access 'other services offered over multichannel video programming systems.' Such equipment includes televisions, VCRs, cable set-top boxes, personal computers, program guide equipment, and cable modems." *In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996*, 13 FCC Rcd 14775, 14778 (1998)(emphasis added).

network. He reiterated the position Zoom has advanced in its pleadings, that Zoom has no objection to cable operators imposing reasonable certification. He pointed in particular to Charter's insistence that it can impose requirements wireless performance on cable modems integrated with wireless routers.

Andrew Jay Schwartzman

A handwritten signature in black ink, appearing to read "Andrew Jay Schwartzman".

Counsel to Zoom Telephonics, Inc.

cc. Commissioner Clyburn
Holly Saurer
Karl Gerner