BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter of	§	
	§	
Application of Charter Communications, Inc.,	§	
Time Warner Cable, Inc., and	§	MB Docket No. 15-149
Advance/Newhouse Partnership	§	
For Consent to the Transfer Control of	§	
Licenses and Authorizations	§	
	§	

Comments of

NRB NETWORK, INC. D/B/A NRBTV

NRBTV opposes the proposed merger (the "Merger") of Charter Communications, Inc. ("Comcast"), Time Warner Cable, Inc. ("TWC") and Advance/Newhouse Partnership ("Bright House") because it will severely harm the dissemination of educational television to the public, depriving consumers of countless independent voices that they might otherwise not hear.

NRBTV was founded in 2005 by members of National Religious Broadcasters and is a nonprofit 501(c)3 organization recognized by the IRS. Since 2005, NRBTV has been promoting and distributing religiously diverse educational video programming throughout the country. NRBTV's lineup of programming is non-commercial, educational and diverse, ranging from historical documentaries, biographies, science and nature, academic lectures, debates, travel, fitness, public policy, music, cooking, church services and Christian teaching programs. NRBTV channel currently reaches 48.1 million U.S. households via DirecTV on a public interest obligation (PIO) channel as well as through multiple local, low power broadcast television affiliates, and several OTT outlets.

As with other start up networks without backing or affiliation from a large company, NRBTV has had to doggedly pursue carriage on any and all platforms that it can possibly secure. It has so far been unsuccessful in securing carriage on any of the top cable systems including Charter, Bright House and Time Warner, and fears that this will be even more difficult should the Commission approve the merger of Charter, Bright House and Time Warner.

I. The Merger will further marginalize educational non-commercial programmers, and create new barriers to delivering such programming via cable systems.

NRBTV has been unable to secure carriage on any cable system in the U.S. NRBTV is a non-broadcast programmer and thus is ineligible for must-carry on cable systems. The broadcast stations that do carry its programming are all low power television stations which are equally ineligible for must-carry or face an inordinate burden to getting carriage. Its only paths to securing cable carriage is retransmission consent, which is solely at the discretion of the MVPD, or to pay for carriage on excess spectrum, usually at exorbitant prices.

In the past, NRBTV has at least been able to talk with MVPD providers to learn that there is either no excess spectrum or to be informed of the exorbitant quoted prices for carriage on excess spectrum. With Charter, Time Warner and Bright House, NRBTV has met a brick wall of silence. None of the providers will even call NRBTV back, despite numerous entreaties from NRBTV, let alone take at least some time to explain why NRBTV is not being carried. Since it has been unable to secure an audience with a representative of any of these MVPDs, NRBTV has also been unable to get any quotes for paying for carriage on any of the systems.

The Merger will only embolden and exacerbate the silence of the MVPDs and non-broadcast content providers like NRBTV will be left out of the carriage landscape even longer. Educational non-commercial programmers seeking carriage will suffer because the merged entity will collectively control a large share of cable systems nationwide and that increased marketplace dominance will give it even less incentive to carry these kinds of channels. Ultimately, there will be fewer alternatives for educational channels to turn to due to capacity issues or cost. Educational programmers, and the public they serve, will ultimately lose in this scenario.

II. The FCC should condition its grant of approval upon Charter/TWC/Bright House setting aside 4-7% of its available capacity for educational channels, and should limit how much the merged entity can charge for the use of the channel.

Even before a merger of Charter, Bright House and Time Warner was contemplated, non-broadcast educational programmers faced huge challenges to gain cable carriage. Without deep coffers or the leverage of multiple channels, they have been and continue to be marginalized, shut out of opportunities for negotiated carriage and otherwise effectively prohibited from gaining access to MVPDs and their subscribers. With the advent of nation-wide satellite television, such channels got a glimmer of hope with the mandated 4-7% set aside of capacity for educational channels on both DirecTV and DISH Network. It is because of this set aside that NRBTV has been able to secure carriage on DirecTV and continues to seek carriage on DISH. Similar opportunities on cable systems simply do not exist, but it is time they do.

Should the Commission elect to approve the Merger, NRBTV strongly urges that such approval be conditioned upon the merged entity setting aside 4-7% of its capacity for educational, non-commercial channels, with a restriction that the merged entity may only charge programmers on such channels for the reasonable costs of signal delivery. This is the only way to ensure that educational channels have a chance of gaining carriage on cable systems and accessing these subscribers. As illustrated with the satellite set-aside, educational programmers need this intervention because their bargaining power is virtually non-existent, and cable providers have no incentive to help them out.

The Commission has full public interest authority to and regularly does impose and enforce conditions when approving large mergers that involve market consolidation per Sections 214(c) and 303(r) of the Communications Act.[i] Moreover, these conditions are not unusual in these types of mergers. In the Comcast/NBC Universal merger in 2011, Comcast voluntarily agreed as part of its merger to add 10 channels over an eight year period, eight of which were to be owned or controlled by minorities.[ii] A similar type of condition specifying a channel set-aside for educational non-commercial programming is appropriate here especially in light of the significant consolidation of the cable market that will result.

III. Conclusion

NRBTV respectfully urges the Commission to deny the Merger on the grounds that it will further significantly lessen carriage opportunities for educational non-commercial programmers. Alternatively, should the Commission decide to approve the Merger, the Commission must require the merged entity to set aside 4-7% of its capacity for educational non-commercial channels and restrict the merged entity from charging programmers on such channels no more than the reasonable costs of signal delivery .

Respectfully submitted,

NRBTV, Inc.

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[i] *Applications of Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC for Consent to Transfer Control of Licenses, Authorizations, etc,* Memorandum Opinion and Order and Declaratory Ruling, 23 FCC Rcd 17444, 17462 at ¶ 29 (2008); *Applications for Consent to the Transfer of Control of Licenses, XM Satellite Radio Holdings, Inc. to Sirius Satellite Radio, Inc.*, Memorandum Opinion and Order and Report and Order, 23 FCC Rcd 12348, 12366 at ¶ 33 (2008); *AT&T Inc. and BellSouth Corporation Application for Transfer of Control*, Memorandum Opinion and Order, 22 FCC Rcd 5662, 5674 at ¶ 22 (2007)

[ii] *Applications of Comcast Corp., Gen. Elec. Co. & NBC Universal, Inc.*, Memorandum Opinion and Order, 26 FCC Rcd 4238, Appendix A, Condition III (2011)

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