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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

Dear Ms. Dortch:

Zoom Telephonics, Inc. (Zoom) respectfully submits that the record in this proceeding demonstrates that Charter Communications, Inc. (Charter) employs practices with respect to cable modems which violate the Communications Act and are contrary to the public interest. In light of the fact that Charter has expressed its intention to extend these policies to cable systems operated by Time Warner Cable, Inc. (TWC) and Bright House Networks, LLC (BHC), the Commission cannot grant Charter's applications for control of TWC and BHN unless it imposes conditions which remediate these deficiencies.

Because other major MSOs do not bundle the price of cable modem leases into the price of Internet service and maintain reasonable practices with respect to approval of customer-owned cable modem for attachment to their networks, there is presently a robustly competitive retail market for cable modems. This promotes retail price competition, assures a wide range of cable modems for customers, and promotes product innovation. Charter customers currently do not get these benefits.

Another reason to maintain a strong retail market is that it helps restrain the price of cable modem leases. If a cable operator's prices for cable modem leases are excessive, its customers will have stronger incentives to cancel their leases and to purchase a cable modem at retail.

Accordingly, if the Commission is otherwise disposed to grant the Charter applications, Zoom offers the attached proposed language describing the conditions which the Commission should impose.

Andrew Jay Schwartzman

A handwritten signature in black ink, appearing to read "Andrew Jay Schwartzman". The signature is fluid and cursive, with the first name being the most prominent.

Counsel to Zoom Telephonics, Inc.

PROPOSED CONDITIONS

DEFINITIONS

“Cable modem” means any device that includes cable modem functionality, including cable modems, cable modem/router products, cable modem/voice products and cable modem/router/voice products.

CABLE MODEM PRACTICES

Introduction. We find it is in the public interest to insure that Charter’s customers have access to a competitive retail market for cable modems that gives them the benefit of a wide range of product offerings and the opportunity to reduce their cable modem cost. The purpose of this condition is to insure that Charter’s rates for cable modem leasing are separately stated rather than bundled with the price of Broadband Internet Access Service, that those rates are not subsidized by rates for Broadband Internet Access Service, that those rates do not discriminate in price against retail cable modems to support a competitive marketplace for cable modems, and that Charter’s cable modem attachment policies are reasonable. This condition will further insure that Charter’s cable modem attachment and pricing policies are clearly stated to customers, that customers are aware that they have the right to choose not to lease a cable modem from Charter, and that customers will not be charged for a cable modem lease if they supply their own modem.

Condition. Commencing within one hundred twenty (120) days of the Closing Date, the Company shall comply with the following conditions:

1. Separately stated prices. Charter must charge separate prices for cable modem leasing and Internet service, and set forth charges for a cable modem lease as a separate line item on customer bills.
2. Non-subsidized prices. Except for customers of its Low Cost Broadband Service, Charter’s price for a cable modem lease must not be subsidized by charges for other service offerings, must not discriminate in price against retail devices to support a competitive marketplace for cable modems, and must be reasonably commensurate with industry practices.
3. Transparency of cable modem offerings. Charter’s website and Internet-related promotional materials must clearly inform customers about Charter’s policies with respect to cable modem leasing and attachment. This shall include the following:

a. Charter will inform customers that they have the option of supplying their own cable modem rather than leasing a cable modem from Charter, that customers who choose to supply their own cable modem and not to lease a cable modem from Charter will not be charged the clearly stated price for leasing a cable modem, and that customers may cancel their cable modem lease at any time without penalty; and

b. In the event Charter chooses to specify which customer-provided cable modems are allowed on its network, Charter will prominently provide on its website a clear, fair, and non-discriminatory list of all allowed cable modems.

4. Certification practices. If Charter maintains a cable modem certification program or otherwise decides which cable modems customers may attach to Charter's network, Charter's acceptance process will be non-discriminatory, will establish reasonable prices for certification testing, will permit submission of a cable modem for testing at any time, and will provide that testing and associated revision of the approved cable modem list will be completed within 75 days of a complete submission. Charter's testing criteria shall be limited to testing reasonable Internet-related functionality and may not include requirements for wireless router performance.

5. Enforcement. Complaints concerning non-compliance with these requirements can be filed with the Commission and shall be resolved on an expedited basis.