STOP MEGA CABLE

April 12, 2016

EX PARTE PRESENTATION

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

Re: Ex Parte Presentation in MB Docket No. 15-149, *Applications of Charter Communications, Inc., Time Warner Cable Inc., and Advance/Newhouse Partnership for Consent to Transfer Control of Licenses and Authorizations*

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, the Stop Mega Cable Coalition submits this letter summarizing the following meetings:

- A meeting on April 8, 2016 with Jonathan Sallet and Owen Kendler of the Office of General Counsel. The following members of the Stop Mega Cable Coalition were present: David Goodfriend, beIN Sports; Todd O'Boyle, Common Cause; George Slover, Consumers Union; Jeff Blum, DISH; Alison Minea, DISH; Hadass Kogan, DISH; Kevin Erickson, Future of Music Coalition; Jill Canfield, NTCA; Josh Stager, Open Technology Institute; John Bergmayer, Public Knowledge; Gene Kimmelman, Public Knowledge; and Mike Forscey, Writers Guild of America, West.

- A meeting on April 11, 2016 with Philip Verveer, Senior Counselor to Chairman Wheeler; Gigi Sohn, Counselor to Chairman Wheeler; and Jessica Almond, Legal Advisor, Media, Public Safety, and Enforcement for Chairman Wheeler. The following members of the Stop Mega Cable Coalition were present: David Goodfriend, beIN Sports; Todd O'Boyle, Common Cause; George Slover, Consumers Union; Jeff Blum, DISH; Alison Minea, DISH; Hadass Kogan, DISH; Mike Forscey, Writers Guild of America, West; and Andrew Jay Schwartzman, Zoom Telephonics.

The Stop Mega Cable Coalition is a diverse group of public interest groups, media and telecommunications businesses, programmers, labor and other concerned parties[1] united in the belief that the merger of Charter Communications, Time Warner Cable and Bright House

[1] Current Coalition members include: Alliance for Community Media, beIN Sports, Cincinnati Bell, Common Cause, Consumers Union, DISH, FairPoint Communications, Future of Music Coalition, Greenlining Institute, ITTA, Media Alliance, NTCA-The Rural Broadband Association, Open Technology Institute at New America, OpenMedia, Public Knowledge, The Rural Broadband Alliance, Sports Fans Coalition, Writers Guild of America, East, Writers Guild of America, West, and Zoom Telephonics.

Networks (together, the "Applicants") presents significant harms for consumers, competition and innovation. This transaction will produce a new cable and broadband giant – Mega Cable – that threatens the future of video distribution services provided by over-the-top ("OTT") distributors, and smaller and new entrant MVPDs.

During the meetings, Coalition members explained that the conditions put forth by the Applicants are wholly insufficient – both in substance and duration – to solve or prevent the harms threatened by this transaction. To begin with, the proposed conditions do not address the many ways that Mega Cable, should the merger be permitted to go forward, would be able to exercise its market power to harm new and emerging OTT services and smaller and new entrant MVPDs that compete with the combined company's offerings. Among other things, Mega Cable would be able to take advantage of the following methods to harm competing services and the public interest:

- Colluding or coordinating behavior with Comcast;
- Deploying usage-based pricing designed to harm competing OTT services;
- Imposing contractual restrictions on third-party programmers that limit their ability to grant online rights to competing online video distributors ("OVDs");
- Interfering with, or discriminating against, OVDs on the public Internet portion of its broadband pipe;
- Charging interconnection fees that impede competing OTT services at the points of interconnection to its broadband network;
- Failing to provide transparency regarding its interconnection policies;
- Undermining OTT services by manipulating the pricing of its broadband offerings to discourage or prohibit customers from taking a standalone broadband product;
- Using its new power to leverage volume discounts that anti-competitively discriminate against smaller distributors;
- Discriminating against independent programmers; and
- Exercising gatekeeper control over app availability or placement in Charter's "Spectrum Guide."

The harms that would result from the use of ***any*** of the tactics described above could deal a significant blow to, if not destroy, competitors and their ability to serve consumers, all to the detriment of the public interest. Members explained that if the Commission decides to approve the merger, it must impose workable remedies for all of the harms presented by this transaction, including the threats posed by the anti-competitive methods discussed herein. The Coalition also noted that Charter's proposed three year term for conditions is wholly inadequate. Members urged that any remedies adopted must last long enough to cure the harms posed, and that such time period must be no less than ten years in duration, with Mega Cable having the burden after that period to justify, for each remedy, sunsetting it. In addition, any such remedies must be subject to meaningful enforcement and oversight by the Commission, including through an expedited complaint resolution process and an appointed compliance monitor, among other things.

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Charter's proposed acquisition of Time Warner Cable and Bright House Networks threatens serious harms for consumers, competition and innovation. The Stop Mega Cable Coalition urges the Commission to solve or prevent the harms presented by this transaction.

Respectfully submitted,

/s/

Stop Mega Cable Coalition

cc: Jonathan Sallet
Owen Kendler
Philip Verveer
Gigi Sohn
Jessica Almond